



# Environmental Review Handbook

---

## Maine Community Development Block Grant Program



[www.meocd.org](http://www.meocd.org)

Office of Community Development  
Department of Economic and Community Development  
111 Sewall Street, 3<sup>rd</sup> Floor  
59 State House Station  
Augusta, ME 04333-0059  
(207) 624-7484 (Voice) (207) 287-2656 (TTY)



# Table of Contents

INTRODUCTION	3
OVERVIEW, TERMINOLOGY, AND GENERAL GUIDANCE	4
OVERVIEW OF THE ENVIRONMENTAL REVIEW PROCESS	4
ENVIRONMENTAL REVIEW TERMINOLOGY	5
ENVIRONMENTAL REVIEW RECORD	8
CONTACTS, COMMENTS AND DOCUMENTATION	9
ENVIRONMENTAL REVIEW CONTACT LIST	11
PROJECT ACTIVITIES, AGGREGATION AND TIERING	15
ACTIVITIES IN FLOODPLAINS	17
CDBG ACTIVITIES IN FLOOD ZONES AND EXECUTIVE ORDER 11988	18
DECISION TREE FOR EXECUTIVE ORDER 11988 REVIEWS	21
DETERMINING YOUR LEVEL OF REVIEW	27
58.35(B)	28
CATEGORICALLY EXCLUDED, CONVERTED TO EXEMPT	34
CATEGORICALLY EXCLUDED, NOT EXEMPT	47
FINDING OF NO SIGNIFICANT IMPACT	65
APPENDIX	102
CDBG ENVIRONMENTAL REVIEW REGULATIONS (24 CFR PART 58)	103
HUD PROCEDURES FOR THE IMPLEMENTATION OF EO 11988	
(24 CFR PART 55 AND PARTS OF 50 AND 200)	122
HUD NOISE ABATEMENT AND CONTROL; SITING NEAR HAZARDOUS	
OPERATIONS; SITING IN RUNWAY CLEAR ZONES (24 CFR PART 51)	133

# Introduction

The Community Development Block Grant Program provides funds for projects of all types. Under federal statute, these projects must be evaluated for their environmental impact prior to obligating project funds. This manual will assist you in creating your environmental review record, selecting the appropriate level of review, and filing the proper documents with us.

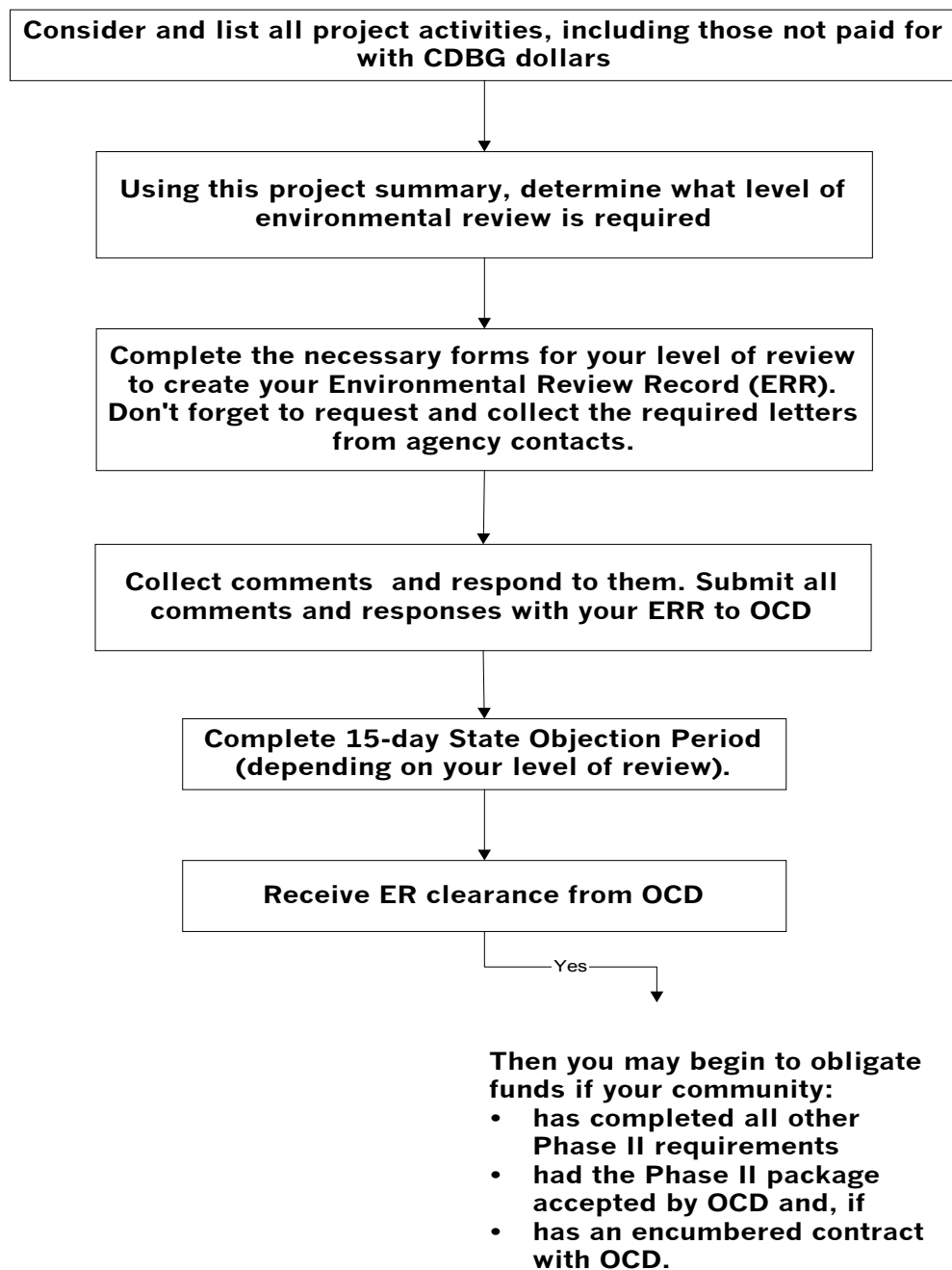
Each section of the Environmental Review Handbook has a description of the topic on the left and the applicable CDBG regulations environmental review on the right. Blank forms are included in each Level of Review section. Examples of completed forms are provided for most Levels of Review. The appendix contains regulations relevant to environmental reviews, beginning with the CDBG Environmental Review Regulations (24 CFR Part 58), HUD Procedures for the Implementation of EO 11988 (24 CFR Part 55 with excerpts from Parts 50 and 200), and ending with the HUD Noise Abatement and Control, Hazardous Operations, Runway Clear Zones (24 CFR Part 51) regulations.

If you have questions after reviewing this material, feel free to contact the Office of Community Development (624-7484).

Sincerely,  
The Office of Community Development Staff

## Overview of the Environmental Review Process

This chart outlines the basic steps of an environmental review process. The length of the process depends on the level of review required and the timeliness of the community's efforts.



# Environmental Review Terminology

---

Your understanding of HUD's environmental review requirements will be increased through familiarity with environmental review terms and concepts. The following is provided for your reference.

**24 CFR Part 58** refers to the regulation governing environmental review procedures.

**ACTIVITY DEFINITION** Activity means an action put forth as part of a CDBG-assisted project. An activity is included in a project whether or not it is paid for or eligible for CDBG funding. See 24 CFR 58.2(a)(1).

**AGGREGATION** Individual activities are considered part of a project when they are: (1) connected by geography; (2) linked by function; or (3) otherwise related logically to other activities in achieving an identified goal. See 24 CFR 58.2(a)(4); 58.32(a).

**PROJECT DEFINITION** Project means an activity or group of integrally related activities designed to accomplish, in whole or in part, a specific objective. Sources of project funds are linked with the activities they are funding.

**PROJECT DESCRIPTION** The description lists activities that make up the project, identifies how actions are connected, and notes impacts from activities. Impacts include individual, collective, and cumulative consequences of present and contemplated future actions. 24 CFR 58.32(b)(c)(1).

**ERR CLEARANCE** A notification letter is sent to the grantee showing the effective date of removal of environmental review requirements. CDBG funds cannot be obligated or expended for activities prior to the ERR Clearance date. Matching funds cannot be obligated or expended *for not exempt or nonexcluded/FONSI activities* prior to the ERR Clearance date. 24 CFR 58.22

**ACTIVITY CATEGORIES** Housing and Urban Development (HUD) identified types or categories of typical CDBG activities and the minimum actions required for review by the National Environmental Policy Act (NEPA). Activity categories include 35b, categorically excluded, and nonexcluded. Once an individual project has been evaluated, a specific LEVEL OF REVIEW can be determined as appropriate for that individual project.

**CHECKLISTS** Every activity category requires a review for compliance with statutes and regulations. The 35(b) Checklist is for the activity category that requires review for statutes and regulations listed in 24 CFR 58.6. The Statutory Checklist is required for all other activity categories that require compliance review for statutes and regulations listed in 58.5 and 58.6. The Statutory Checklist includes other state statutes and regulations.

**35(B)** The activities in this category are either exempt by definition or categorically excluded. What these activities have in common is a HUD required compliance review with 24 CFR 58.6 and an *absence of physical or structural changes*. In addition, Economic development activities do not expand existing operations.

**CATEGORICALLY EXCLUDED** Rehabilitation and public facility reconstruction are activities requiring more than minimal but less than a full NEPA review. A categorically excluded activity may stop fitting into this category if certain size, use, or other characteristics are present (24 CFR 58.35(a) or in case of extraordinary circumstances (24 CFR 58.2(a)(3)). All project activities must be examined for compliance with Federal and state laws, regulations, and Executive Orders (24 FR 58.5&6). **CONVERTED TO EXEMPT** and **NOT EXEMPT** are types of categorically excluded reviews. Review results could determine a project needs a nonexcluded/FONSI level of review.

**CONVERTED TO EXEMPT** Categorically excluded activities may meet all conditions and compliance requirements fully and unconditionally. The review process may be finalized upon acceptance of this determination. The Maine CDBG program requires submission of an Environmental Review and Clearance record prior to an ERR Clearance.

**NOT EXEMPT** When categorically excluded activities cannot meet all requirements and cannot become exempt, as in the case of unspecified housing rehabilitation sites, additional review actions are needed. The review may be of sites as they are specified or it may be additional or follow-up evaluation; procedures require a public notice and other actions as necessary. The Maine CDBG Program requires the notice be published in the newspaper.

**NONEXCLUDED/FONSI** Non-excluded activities must complete a NEPA environmental review. This requires completion of the environmental assessment checklist. A project with at least one non-excluded activity must include all project activities in an environmental assessment. The assessment will conclude need for an Environmental Impact Statement (EIS) or determine a Finding of No Significant Impact (FONSI) 24 CFR 58.36 and 58.40. New construction, demolition, and site development are nonexcluded activities. Same site replacement housing is the only time new construction is categorically excluded. Categorically excluded activities that result in change, altered usage, or increased capacity become non-excluded activities and require an ENVIRONMENTAL ASSESSMENT.

**ENVIRONMENTAL ASSESSMENT CHECKLIST** Includes seven major areas of evaluation for potentially significant impacts. Completion of the checklist will conclude no significant impact, identify additional data to be reviewed, or show need for an Environmental Impact Statement (EIS).

**EIS** When the consequence of a project is extensive, a comprehensive study of impacts becomes necessary. A project providing water capacity for 2,500 additional housing units requires an EIS. 24 CFR 58.37. A Finding of Significant Impact may require an EIS. See 24 CFR 58.40(g). Maine CDBG projects rarely require an EIS.

**EXTRAORDINARY CIRCUMSTANCES** Unusual, unique, unexpected, or unprecedented conditions may require additional review for project activities, regardless of activity category. See 24 CFR 58.2(a)(3).

**FLOODPLAIN** All activities must be reviewed for location in a floodplain. Activities in floodplains require additional actions. In most cases, publication of special notices, comment periods, and floodplain permits are necessary (EO 11988). See Policy Letter #5 for more information.

**NOTICES** Published notices in newspapers and comment periods are required by the Maine CDBG program. **CATEGORICALLY EXCLUDED**, **NOT EXEMPT** and **NON-EXCLUDED/FONSI** reviews require published notices.

**UPDATES** Additional review may be necessary if activities, alternatives, discoveries, conditions, etc. require reevaluation of findings. 24 CFR 58.47(a) Additional review or review actions may be necessary to amend or update an existing ERR. 24 CFR 58.47(b)

**ENVIRONMENTAL JUSTICE** This requires review for a disproportionately high adverse effect on minority and low-income persons or populations. Siting of facilities, consequences of location, etc. are the subject of this review. Addressing as well as identifying adverse effects are purposes of this requirement. (EO 12898)

# Environmental Review Record

As you complete your environmental review, you will collect several documents. These will include checklist forms discussed later in this manual, certifications, project definitions and a public comment record. These materials must be kept as a record of your review process and are called an environmental review record (ERR).

The ERR must be kept on file as evidence that an environmental review was finished and that your project tasks were completed in compliance with your ERR conclusions. The ERR is a public record and must always be available for public review whether or not your level of review includes a local comment period.

Depending on your level of review, your ERR will include:

- Environmental review statement
- Appropriate checklist(s)
- Requests for Release of Funds and Certification Form
- Published Notice
- Letters from various agencies and regulatory authorities
- Comments and responses
- Notice to Interested Parties (Dissemination List)

Remember, your ERR must document all of your review activities and demonstrate that you have considered your project in the context of all applicable environmental statutes and regulations.

## Regulatory Reference

### **§ 58.38 Environmental review record.**

*The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review.*

**(a) ERR Documents.** *The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision-making and actions pertaining to a particular project of a recipient. The document shall:*

- (1) Describe the project and the activities that the recipient has determined to be part of the project;*
- (2) Evaluate the effects of the project or the activities on the human environment;*
- (3) Document compliance with applicable statutes and authorities, in particular those cited in § 58.5 and 58.6; and*
- (4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).*

### **(b) Other documents and information.**

*The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties.*



# CONTACTS, COMMENTS AND DOCUMENTATION

ERR compliance is documented in a variety of ways. Two inputs are necessary for all ERRs. One is floodplain map and panel number identification. These maps are available locally. Except for 35(b) reviews, ALL PROJECTS MUST HAVE A COMPLIANCE LETTER FROM THE STATE HISTORIC PRESERVATION OFFICER (SHPO). The SHPO is on the Environmental Review Contact List. Except for the SHPO, contact with every person on the Contact List is not required for every ERR. As “interested parties,” FONSI reviews may include them on their dissemination list.

**Contacts:** Code enforcement officers, local documents, maps, studies, Contact List notations, and regional planning commissions are helpful contacts. These contacts could provide enough documentation to answer some or all other compliance needs. A Coastal Barriers website address on the Contact List, for example, lists municipalities with applicable sites. Some activities, however, require more in-depth evaluation. The Maine Endangered Species Contact List notes three evaluation steps for compliance determinations. What you find out through these steps will pinpoint your need for assistance. Some conclusions may need confirmation or reconfirmation. A document may show a wetland on your project site but change in regulations may have declassified it as a wetland. The Contact List gives you names of persons from whom assistance can be requested either in writing or by telephone. Keep in mind that clear descriptions are more important than elaborate statements. A legible map or site plan provided now is more important than a four-color map provided two weeks later. The following could facilitate this process.

## COMPLIANCE REVIEW ASSISTANCE REQUESTS

### COVER LETTER OR MEMO

- State the compliance area you are concerned about (i.e., E.O. 11988) (i.e., “Beginning With Habitat” map)
- Identify known and/or potential compliance questions relevant to your project (i.e., project is located in or impacts a floodplain) (i.e., no map was available and project disturbs undeveloped land)
- Focus on project characteristics that relate directly to the compliance area (i.e., if reconstruction of a structure, reconstruction costs and the market value of the structure prior to improvement are relevant to floodplain and E.O. 11988) (i.e., sewer and water extension in an existing ROW could be relevant for Endangered Species review)
- Attach a project description and a site plan or site map (be sure you have aggregated activities)

### PROJECT DESCRIPTION

- What will be acquired, constructed, rehabilitated, improved, installed, etc.
- Existing site or location characteristics (size of parcel, number and size of buildings, linear feet and width of roadways, etc.)
- Proposed site developments (i.e., identify acres or square footage of new construction, identify acres or square footage that will occur in previously undeveloped or undisturbed areas)
- Total Project Cost and Funding Sources
- Potential specifics (with elaboration as needed):
  - Has the project been in another ERR and/or State permitting process?
  - Does the project site include areas within 75 feet of any protected natural resource(s)?

- Will the project be located within 75 feet of a stream, pond, or wetland?
- Will the project affect a waterbody and, if so, which one?
- Has the site been surveyed by a design professional or wetland scientist?
- Reference conclusions reached as part of your project review of Essential Habitat, Submerged Land, and Coastal Barriers websites shown on the Contact List.
  - Were these reviewed?
  - Did review call for follow-up or additional review?

#### SITE MAP/SITE PLAN ATTACHMENT:

- show and identify adjacent water bodies, existing roadways and existing structures;
- indicate north arrow and scale (if reduced, show original scale and percentage of reduction);
- locate proposed construction, improvements, installations, etc. to scale; and
- identify other areas that will be disturbed because of the project.
- For floodplain review,
  - use the appropriate section of the FIRM as the base map and then follow the above directions and
  - include a tax map copied at scale with site highlighted and elements drawn at scale.

Compliance determinations are needed before you submit your ERR. Responding to assistance requests could take from 14 to 30 days. The response could call for additional information, more review, additional study, a permit, remediation, or other actions.

Comments: Questions, concerns or objections are always possible. OCD must be informed of comments and how they were resolved when the ERR is submitted. *Some* projects require a 7 or 15-day local comment period. This is an identified time open for any and all comments, etc., relating to the project's environmental review and ERR clearance. The municipality is obligated to consider and to respond to all. Note that comments are to be resolved before sending the ERR to OCD.

Dissemination List: The FONSI level of review requires the FONSI notice be sent to interested groups and individuals. This notice is the same one provided to a newspaper for publication. Guidance for a dissemination list is given in the FONSI section and Contact List persons should be considered for inclusion. FONSI level reviews include at least a 15-day State Objection Period. The State Objection Period could be extended to deal with objections. Allowed objections are limited to those given in 24 CFR 58.75.

Documentation: A complete file of compliance documents must be kept by the local government and back up conclusions made through the review process. Checklists provide space to summarize both conclusions and the basis for conclusions. All ERR checklists will include floodplain map and panel numbers and state whether or not a floodplain is involved. Date of the letter and conclusion from the SHPO must be written on the checklist. Other compliance areas are to be summarized in similar fashion.

Each level of review section of this Handbook lists what to submit for your ERR clearance. Documents to submit include the letter from the SHPO whenever historic properties or resources are on a checklist and a letter from the floodplain contact only when a floodplain is involved. A general location or project map should be included with your checklist. You may be asked or required to include other materials, depending on your project.

## Environmental Review Contact List

<ul style="list-style-type: none"> <li>National Historic Preservation Act.</li> <li>Protection and Enhancement of the Cultural Environment, E.O. 11593.</li> <li>Archeological and Historic preservation Act.</li> </ul>	<p>Earle G. Shettleworth, Jr., SHPO &amp; Director Maine Historic Preservation Commission 65 State House Station Augusta, Maine 04333-0065 <i>Phone 287-2132</i></p>
<ul style="list-style-type: none"> <li>National Flood Insurance Act.</li> <li>Flood Disaster Protection Act.</li> <li>National Flood Insurance Reform Act.</li> </ul>	<p>W. Louis Sidell, Jr., Flood Ins. Coordinator State Planning Office 38 State House Station Augusta, Maine 04333-0038 <i>Phone 287-8063</i></p>
<ul style="list-style-type: none"> <li>Executive Order 11988.</li> <li>HUD Noise Regulations.</li> </ul>	<p>Margo L. Fraser, DECD/OCD 59 State House Station Augusta, Maine 04333-0059 <i>Phone 624-9812</i></p>
<ul style="list-style-type: none"> <li>Coastal Zone Management Act. <i>Coastal Zone Consistency.</i></li> </ul>	<p>Todd Burrowes, Policy Dev. Specialist State Planning Office 38 State House Station Augusta, Maine 04333-0038 <i>Phone 287-1496</i></p>
<ul style="list-style-type: none"> <li>The Clean Air Act. <i>USEPA Implementing Regulations.</i> Protection and Improvement of Air Law.</li> </ul>	<p>Carolyn Wheeler, Environmental Specialist DEP Bureau of Air Quality 17 State House Station Augusta, ME 04333-0017 <i>Phone 287-2437</i></p>
<ul style="list-style-type: none"> <li>Safe Drinking Water Act. Public Water Supply Source Protection Program.</li> </ul>	<p>Joy Adamson, Planner &amp; Researcher DHS Drinking Water Program 10 State House Station Augusta, Maine 04333-0010 <i>Phone 287-5681</i></p>
<ul style="list-style-type: none"> <li>Safe Drinking Water Act. Sole Source Aquifers (<i>Islesboro, Matinicus, Monhegan, North Haven, and Vinalhaven Islands have SSAs</i>)</li> </ul>	<p>John Hopeck, Senior Geologist DEP Bureau of Land &amp; Water Quality 17 State House Station Augusta, Maine 04333-0017 <i>Phone 287-7733</i></p>
<ul style="list-style-type: none"> <li>Wild and Scenic Rivers Act. <i>Only Maine designated river is the Allagash Wilderness Waterway</i></li> </ul>	<p>Herb Hartman, Deputy Director Dept. of Conservation, Bureau of Parks &amp; Recreation 22 State House Station Augusta, ME 04333-0022 <i>Phone 287-4961</i></p>

- Federal Endangered Species Act.  
*Federal and Maine designations differ.*  
➔ Send USF&WS a copy of assistance requests made to MDIFW.

Gordon Russell, Field Supervisor  
US Fish & Wildlife Service  
1033 South Main Street  
Old Town, Maine 04468  
Phone (207) 827-5938 EXT. 13

- Maine Endangered Species Act.  
*Maine Designated Endangered and Threatened Species and Essential Habitat.*  
➔ Check the list of designated essential habitats by Towns at website [www.maine.gov/ifw/wildlife/etweb/habitat/ehindex.htm](http://www.maine.gov/ifw/wildlife/etweb/habitat/ehindex.htm) to see if Town is listed. If so, refer to the location map attached to the list. If project is close or within area boundaries or activities impact that area, contact MDIFW immediately (with copy to USF&WS) and await results.  
➔ Get “Beginning with Habitat” Maps from local CEO or Planner and review for impact. If maps not available or if site likely impacted by project, request assistance from MDIFW (with copy to USF&WS) and await results.  
➔ If proposal will develop undeveloped land or disturb previously undisturbed soil or vegetation, request assistance from MDIFW (with copy to USF&WS) and await results.

Mark Stadler, Director  
Maine Department of Inland Fish & Wildlife  
41 State House Station  
Augusta, ME 04333-0041  
Phone (207) 287-5259

- Rivers and Harbors Act (Section 10); Clean Water Act (Section 404). *Dredging, filling, discharging or constructing in navigable waters, wetland, or waterways.*

Jay Clement, U.S. Army Corps of Engineers  
Maine Project Office  
675 Western Avenue #3  
Manchester, ME 04351  
Phone 623-8367

- Farmland Protection Policy Act.  
*Projects in Urbanized Areas shown on Census Bureau maps and “tint overlay” on USGS maps do not require a review by NRCS.*  
➔ If land use was recently or is currently farmland, NRCS must be contacted.

Bill Yamartino, Asst. State Conservationist  
USDA-NRCS  
967 Illinois Avenue, Suite 3  
Bangor, ME 04401  
Phone (207) 990-9100

**OR**

NRCS District Conservationist listed in:  
[www.me.nrcs.usda.gov/contact/directory/fielddoffices.html](http://www.me.nrcs.usda.gov/contact/directory/fielddoffices.html)

- Site Location Law. *Projects in excess of 20 acres or structures covering more than 3 acres.*

- Natural Resource Protection Act. Executive Order 11990 (wetlands). *Dredging, filling, construction in, on, over, or adjacent to the following: dune system, river pond, stream, brook, coastal and freshwater wetlands.*

- Storm Water Management Law.

- Protection and Improvement of Waters Law. *All overboard wastewater discharges from municipalities and industries.*

- Subsurface Wastewater Disposal Rules
- Minimum Lot Size Rules
- Seasonal Conversion Rules
- Rules for Site Evaluators
- Private Cemetery Regulations

- Safe Drinking Water Law. *Drinking Water Program*

- Coastal Barriers Resources Act. *Ocean Beach and dune/coastal barrier areas.*  
➔ Check listing at: [www.maine.gov/doc/nrimc/pubedinf/factsht/mar-fact.htm](http://www.maine.gov/doc/nrimc/pubedinf/factsht/mar-fact.htm). **If Town is listed, contact MGS immediately** and await results. Towns without a CBRS do not need to get compliance information from the MGS.

- Submerged Lands Act. *Actions in tidal waters/tidal rivers, Great Ponds, and international boundary rivers (St. Croix, St. John, St. Francis) including dredging, filling, or placement of permanent structures.*  
➔ Check for clarification at: [www.maine.gov/doc/parks/programs/sublands](http://www.maine.gov/doc/parks/programs/sublands) and contact DOC immediately, name the affected waterbody, and await results.

Judy Gates, Licensing Coordinator  
DEP Land Resource Regulation Division  
17 State House Station  
Augusta, ME 04333-0017  
Phone 287-7691

Brian Kavanah, Division Director  
DEP Water Resource Regulation  
17 State House Station  
Augusta, ME 04333-0017  
Phone 287-7700

James Jacobsen, Environmental Spec. IV  
DHS Division of Health Engineering  
10 State House Station  
Augusta, ME 04333-0010  
Phone 287-5695

Teresa Trott, Environmental Coordinator  
DHS Drinking Water Program  
10 State House Station  
Augusta, ME 04333-0010  
Phone 287-5685

Stephen M. Dickson, Marine Geologist  
Maine Geological Survey  
22 State House Station  
Augusta, ME 04333-0022  
Phone 287-7174

Carol DiBello, Coordinator  
Submerged Lands Program  
Bureau of Parks & Land  
Department of Conservation  
22 State House Station  
Augusta, ME 04333-0022  
Phone 287-4922

- Protection and Improvement of Waters Law. *Sanitary sewer extensions that add wastewater to treatment facilities.*

*Bath, Brunswick, Bethel and areas south:*  
Stuart Rose  
Maine DEP  
312 Canco Rd, Portland, ME 04103  
Phone 822-6345

*Paris, Lisbon, Lewiston, Auburn, Woolwich, Belfast, central Maine areas:*  
Beth DiBello  
17 State House Station.  
Augusta, ME 04333-0017  
Phone 287-7659

*Searsport, Bangor, Brewer, Millinocket, Greenville, Hancock and Washington Counties:*  
Jim Sohns  
Maine DEP  
106 Hogan Rd., Bangor, ME 04401  
Phone 941-4571

*Patten and Northern Maine:*  
Nick Archer  
Maine DEP  
1235 Central Dr., Skyway Park  
Presque Isle, ME 04769  
Phone 764-0477

# Project Activities, Aggregation and Tiering

As you define your project activities and select a level of review, you need to consider two concepts defined in Part 58 – aggregation and tiering.

Under the CDBG ER regulations, a project is defined as “an activity or group of integrally-related activities designed to accomplish in whole or in part, a specific objective.” To perform an environmental review, it is essential to include all project activities in your review, regardless of who is paying for them. This requirement is described under 58.32.

Section 58.32 says individual activities, which are related by geography, function or logic must be evaluated as a single project. In essence, this means all individual activities associated with your project must be included in one environmental review.

For example, if you are replacing water pipes in several areas in your community and they are part of the same system, the activities are functionally related because all are water system-related. They share the same function.

If your project consists of replacing water lines and completing other street improvements in a neighborhood, all activities are aggregated into one environmental review because the activities are geographically related. They take place in the same area.

Finally, your project may have a series of activities that are neither functionally nor geographically related but have a common outcome or goal or some other relationship. This falls under “combination of aggregation approaches” or “logical parts of a composite of contemplated actions”.

Part 58 also provides for the possibility of conducting a general environmental review on the type of project you intend to undertake, even

## REGULATORY REFERENCES

### § 58.2 Terms, abbreviations and definitions.

(a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

(1) **Activity** means an action that a grantee or recipient puts forth as part of an assisted project, **regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program...**

(4) **Project** means **an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.**

### TIERING DEFINITION:

(9) **Tiering** means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

### AGGREGATION AUTHORITY:

#### § 58.32 Project aggregation.

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: **functional aggregation** when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; **geographic aggregation** when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or **a combination of aggregation approaches**, which, for various project locations, considers the impacts arising from each functional activity and its **interrelationship with other activities**.

### AND AGGREGATION PURPOSE:

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

(1) **Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).**

(2) Consider reasonable alternative courses of action.

(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.

(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities

if you do not yet know the specific sites for the project. This is called tiering. Under Micro-Loan & Housing Assistance programs, the types of activities are usually known and can be evaluated in a general sense. Grantees need to use at least the Categorically Excluded, Not Exempt level of review in this situation. As specific sites become known, your community will update your ERR by performing basic reviews for each specific site.

modifications to individual activities.

**TIERING AUTHORITY:**

**§ 58.15 Tiering.**

*Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review.*



# Activities in Floodplains

All CDBG grantees are subject to the requirements of Executive Order 11988 governing activities in floodplains, Maine CDBG requirements, and the local Floodplain Management Ordinance. Proposed CDBG activities in a floodplain must be reviewed by the review process summarized in the Maine CDBG Program Policy Letter #5, which begins on the next page. Proposed actions clearly not in a floodplain and not impacting a floodplain must be documented on your checklist(s) as to the basis of this conclusion. You must identify by number and panel number the FIRM or FHBM map you used to document your conclusion. Your Code Enforcement Officer must confirm your conclusion that your proposed actions are neither in nor impact a floodplain.

If your project involves a floodplain, you must notify the Flood Insurance Coordinator at the State Planning Office. The COMPLIANCE REVIEW ASSISTANCE REQUEST indicates what should be sent. All actions required under EO 11988 and floodplain permitting must be finalized before compliance with Floodplain Management and Flood Insurance regulations can be concluded. Completion of your environmental review, therefore, cannot occur before EO 11988 and floodplain ordinance application are complete.

Documentation to submit to OCD:

- Copies of both published notices
- Explanation of "No Practicable Alternative" (step 6 of EO 11988 process; see chart)
- Copy of letter from Flood Insurance Coordinator and
- Copy of floodplain permit.

## REGULATORY REFERENCES

**§ 58.5 Related Federal laws and authorities.**  
*In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action **that would apply to HUD under the following specified laws and authorities.** The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and **must consider the criteria, standards, policies and regulations of these laws and authorities.***

**§58.6 Other Requirements.**  
*In addition to the duties under the laws*

....

**b) Floodplain management and wetland protection.**

(1) **Executive Order 11988**, Floodplain Management, May 24, 1977 (3 CFR, 1977 Comp., p. 117), as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see § 55.10 of this subtitle A.)

(2) **Executive Order 11990**, Protection of Wetlands, May 24, 1977 (3 CFR, 1977 Comp. p. 121) particularly sections 2 and 5.



Department  
Of  
Economic and Community Development  
59 Statehouse Station  
Augusta, Maine 04333

**POLICY LETTER #5**

**Subject:** *CDBG Activities in Flood Zones and Executive Order 11988*

**Revised:** 02/00

**Introduction**

All Community Development Block Grant (CDBG) recipients must comply with federal Executive Order (EO) 11988 (Floodplain Management) and Sections 102 and 202 of the Flood Disaster Protection Act. This Information Letter outlines what has to be done when a CDBG project is located in or impacts a floodplain.

**Terminology You Should Know**

**Flood:** Temporary condition of inundation of normally dry land areas due to unusual overflow of inland or tidal waters or unusual accumulation or runoff of surface waters.

**Floodplain:** Any land area susceptible to being flooded. A 100-year floodplain has at least a 1% chance of flooding in any year; a 500-year floodplain has a .2% chance of flooding in any year.

**SFHA (Special Flood Hazard Area):** shows the area inundated in a 100-year flood. A coastal high hazard area is a 100-year floodplain with additional hazards due to wind and rain action.

**Floodway:** Includes a river channel or water course and the adjacent land area that during a flood has the greatest depth, velocity, and highest hazard within the floodplain.

**Flood Maps:** Both a **FHBM** (Flood Hazard Boundary Map) and a **FIRM** (Flood Insurance Rate Map) show 100-year flood areas, including coastal high hazard 100-year areas. Some FIRMs also show 500-year flood areas and base flood elevations; a few show floodway boundaries.

**NFIP (National Flood Insurance Program):** Federal program enabling property owners in participating communities to purchase flood insurance. Participant communities must adopt and enforce a floodplain management ordinance to reduce future flood risks in SFHAs.

**Flood Hazard Development Permit:** Proposed projects in floodplains may be allowed. One requirement is a local permit. Communities in the NFIP administer a permit system to prevent increased flood damage from development and redevelopment.

**EO 11988:** This Executive Order specifies the 8-step process that must be completed before CDBG – funded projects may be allowed in a floodplain. CDBG regulations (24 CFR Part 55) and relevant sections from other Parts are in the Appendix.

**Critical Actions:** An activity for which even a low chance of flooding is too great a risk in terms of loss of life, injury, or damage to property. Critical actions include maintenance or extension of useful life of facilities such as hospitals, nursing homes, emergency operations centers, and places that produce, use or store water-reactive materials, etc. **CRITICAL ACTIONS CANNOT BE APPROVED IN FLOODWAYS OR COASTAL HIGH HAZARD AREAS. Critical actions in 100 and 500-year floodplains always require a full review under EO 11988.**

**Functionally Dependent Use:** A land use that must be in proximity to water in order to perform its intended function, such as a marina, port facility, water-front park, dam, many types of bridges. Long-term storage or related manufacturing facilities are not functionally dependent uses. **Functionally dependent uses always require a full review under EO 11988.**

### **When should a community perform an EO 11988 Review?**

Your community must find out first if your proposed project is located in any floodplain. To find out, locate your project on a Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) at your town office. Your local Code Enforcement Officer can help you find the maps and locate your project on them. In addition, you must consult with community officials to see if your project site is susceptible to being flooded or has a history of flooding. Remember, it is the community's responsibility to determine if your project is located in a floodplain.

If you determine your project is not in a SFHA or any other floodplain, **there are no additional requirements under EO 11988 and a Flood Hazard Development Permit is not required.** Contact the Maine Floodplain Management Program in the State Planning Office (SPO) if you and your Code Enforcement Officer have questions regarding floodplain boundaries and definitions.

Exempt activities in HUD's Environmental Review Regulations (24 CFR 58) and a minor change to a previously-approved project with no additional adverse impacts on a floodplain are not subject to EO 11988. If any activities are part of a larger project subject to an EO 11988 review, contact the Office of Community Development (OCD) for guidance. Other exemptions from an EO 11988 review for actions in floodplains are listed on the next page.

### **What if my project IS located in a Floodplain?**

**If you determine your project is in a SFHA or any other floodplain,** you must identify how your project will meet requirements and allow time to complete EO 11988 and Flood Hazard Development Permit procedures. The best immediate action is to request technical assistance from the Floodplain Management Program and alert your Development Program Manager (DPM). The time required to do EO 11988 and Flood Hazard Development Permit tasks makes your environmental review process longer.

**If a functionally dependent use, floodway, or coastal high hazard area are issues in your project,** you must alert your DPM in OCD and the Maine Floodplain Management Program in SPO. If your activities are eligible, you should discuss your schedule to complete the EO 11988 8-step process and Flood Hazard Development Permit procedures with your DPM.

## An EO 11988 review is required when:

- ✓ **critical actions** are proposed in 100 or 500 year floodplains;
- ✓ **functionally dependent uses** are proposed in floodways, coastal high hazard areas, or 100 year floodplains; and
- ✓ **any of the following are proposed in a SFHA or non-critical actions are proposed in a coastal high hazard area:**
  - acquisition
  - construction (i.e., new construction, infrastructure extensions )
  - disposition
  - **substantial improvement**
  - non-residential **minor improvement**
  - residential **minor improvement** in 5 or more units
  - financial assistance (assess what is being financed)
  - lease, rent, occupy, etc., properties

**Substantial improvement** means repair, reconstruction, modernization, or improvement that:

- 1) costs more than 50 percent of the market value of the structure prior to improvement or
- 2) increases the number of dwelling units or average peak number of customers and employees likely on-site at any one time by 20 percent or more.

**Minor improvements** are repair, reconstruction, modernization, or improvement actions that do not qualify as substantial improvement.

## ARE THERE ANY EXCEPTIONS?

**Two exclusions to the “substantial improvement” standard** exist. One is for actions necessary to assure safe living conditions in a structure when these actions are the only ones taken.

Compliance with Life Safety Code violations is an example of assuring safe living conditions. The second is alteration of a structure on the National Register of Historical Places or on a State Inventory of Historic Places. A variance from the Board of Appeals must be issued as well as complying with State Historic Preservation Officer requirements.

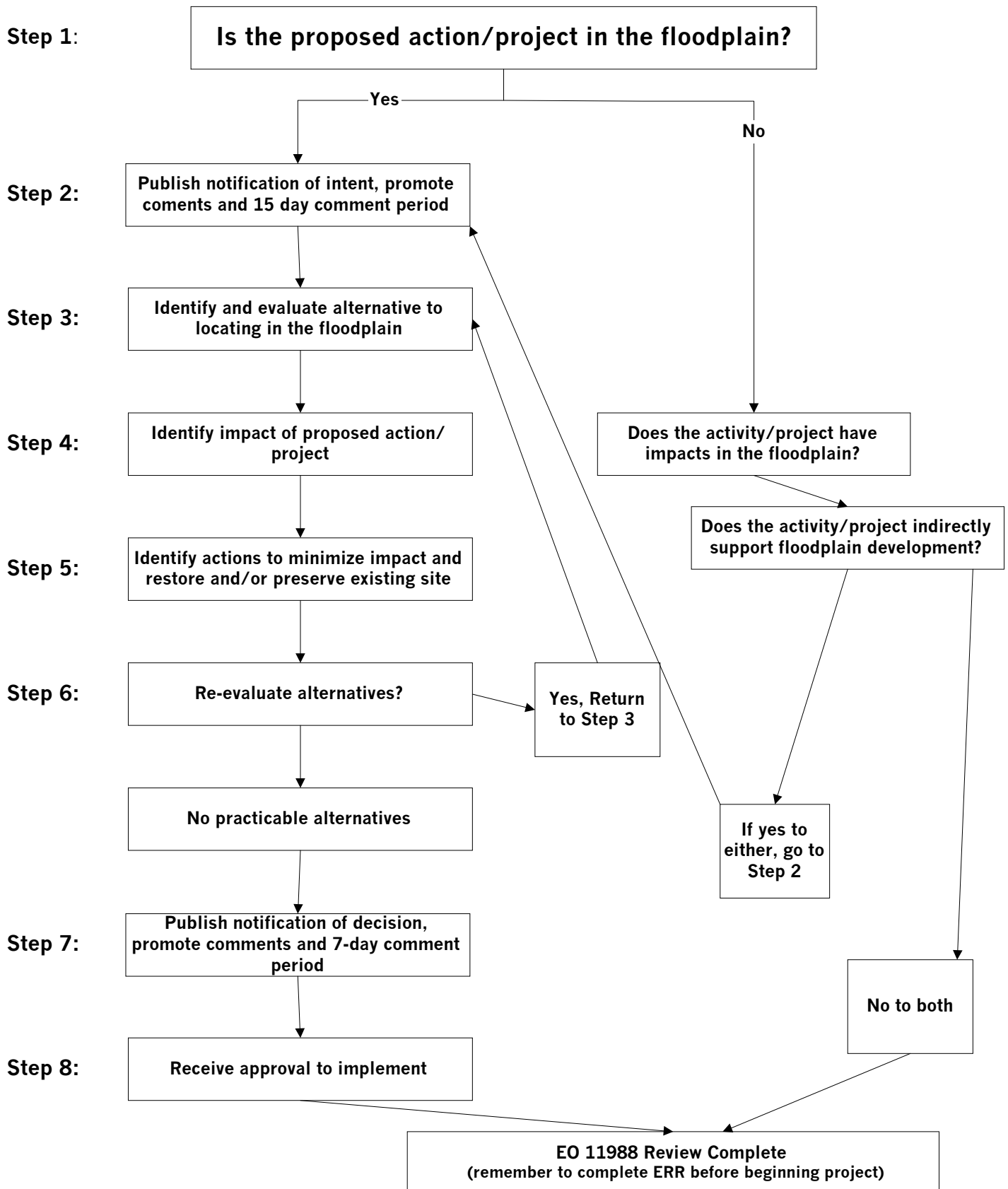
**A full review is not required when** only an incidental portion of the land area is in the floodplain, no action, not even landscaping, will occur in the floodplain, and three conditions are met. These conditions, designed to preserve the floodplain, are:

1. **no actions will directly or indirectly impact the floodplain;**
2. **provisions are made for site drainage;**
3. **a covenant or comparable restriction is placed on use of the property.**

## Requirements of an EO 11988 Review – An Overview

This presidential Executive Order calls for public review and comment on any proposed project located in a floodplain. This is **above and beyond what is required for a CDBG project not in a floodplain**. The eight steps in the process are shown in the following “Decision Tree for EO 11988 Process”. A narrative of the eight steps is attached.

# Decision Tree for Executive Order 11988 Reviews



## SUMMARY OF EO 11988 Process

### STEP 1 – Is the proposed project located in a floodplain?

**STEP 2 is the first formal and public review opportunity in the process.** This 15-day comment period can fit into your local citizen participation, planning, or Phase II review or process. A notice is to be published that includes:

- name of the project/activity, map of proposed location, description of the activity
- why is it proposed to locate in the floodplain
- total number of acres of floodplain involved
- local official and phone number to contact for information and
- location of office and hours available of full description/documentation on the project

A separate public hearing is not required. Presenting the EO 11988 process and requirements during your CDBG Phase II Public Hearing is recommended.

**STEPS 3 through 5** call for identification and evaluation of:

- practicable alternatives to the proposal [see 24 CFR 55.27(a)(1) for documentation requirements];
- direct and indirect potential impacts of alternatives (including the original proposal);
- mitigation measures that would minimize impacts from the proposal/alternatives [see 24 CFR 55.27(a)(2)].

**STEP 6** requires reevaluation of all alternatives. Documentation of “no practicable alternative” to the project must be developed and prepared for submission prior to proceeding to Step 7.

**STEP 7 is the Public Notification of Decision of “no practicable alternative” to the proposal. This is the second published notice in the process;** the comment period is for seven days; the notice to be published includes:

- name of the project/activity, map of proposed location, and reference to earlier notice
- reasons why the proposal must locate in the floodplain and list of alternatives considered
- mitigation measures to be taken to minimize impacts
- local official, office, and phone number to contact for information and
- location and hours available of full description/documentation on the project

Compliance with FEMA elevation and construction requirements is necessary for actions approved in floodplains. These are in the Floodplain Management ordinances of communities participating in the NFIP and in 44 CFR 60.3 for non-participating communities. For approved actions in coastal high hazard areas, please see 24 CFR 55.1(c)(3). Other requirements include Notification of floodplain hazard (24 CFR 55.21), Conveyance restrictions for the disposition of real property (24 CFR 55.22), and Construction requirements (24 CFR 200.926d (4)).

**STEP 8** is to implement the project. The environmental review process and other permit processes, including a Flood Hazard Development Permit, must be processed before implementation can be approved.

## What do I do with the EO 11988 Review when it's complete?

EO 11988 documentation is part of your community's Environmental Review Record (ERR). EO 11988 documentation sent to OCD includes both published notices (with maps), an explanation of "No Practicable Alternative", report on comments received, and how comments were resolved. These documents are the back up for conclusions on your checklists. Your EO 11988 completion predates your ERR completion. Your local floodplain ordinance must be in compliance with the State's floodplain management requirements.

## Do I need a Flood Hazard Development Permit?

In addition to the EO 11988 process, all projects using CDBG funds for construction or acquisition in a SFHA must either acquire a local Flood Hazard Development Permit or document through the local floodplain management system that a permit is not required. Your Code Enforcement Officer is a first step in your effort to comply with requirements and to complete the permitting process. Final steps include notification of the Maine Flood Insurance Coordinator if CDBG funded actions will occur in floodplains and notification to DECD through an ERR submission that the permit process is complete.

Definitions of development and substantial improvement are included in local floodplain ordinances. **Local floodplain ordinances must abide by the following definitions:**

**Development** means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement to a structure with a cost of 50 percent or more of the market value of the structure prior to construction. This includes structures which have incurred substantial damage. Not included are: (a) improvement to correct existing violations of state or local health, sanitary, or safety codes that are identified by the local code enforcement officer to be the minimum necessary to assure safe living conditions; or (b) alteration of an historic structure only if it will not preclude the structure's continued designation as an historic structure, and a variance is obtained from the community's Board of Appeals."

## Actions in a SFHA cannot be considered without meeting the following:

- accomplish the work in the drier summer months and in the shortest possible time;
- gather all materials, equipment, and supplies and store them outside the floodplain;
- follow sound erosion and soil stabilization practices during construction and restore the site to its original contour; and
- review project actions in light of Floodplain Management Ordinance requirements and compliance with State Model Floodplain Ordinance.

**Where can I get more information ?**

Questions regarding NFIP standards, State Model Ordinance, floodplain boundaries, and Further Advice on EO 11988 may be addressed to the Maine Floodplain Management Program in the State Planning Office. Attached are the HUD regulations on Implementation of Executive Order 11988 (24 CFR Part 55 with portions of Parts 50 and 200). Questions regarding completion of the EO 11988 process may be addressed to OCD.

Floodplain management information and technical assistance is available through the Local Code Enforcement Officer and the Maine Floodplain Management Program. Contact the State program through the State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333-0038 or call (207) 287-8050. For information on review and publication requirements of EO 11988, contact the Office of Community Development, 59 State House Station, Augusta, Maine 04333-0059 or call (207) 624-9812.



## SAMPLE NOTICE (for Step No. 2)

### NOTICE OF A PROPOSED DEVELOPMENT IN THE FLOODPLAIN

The (name of the unit of local government) is requesting financial assistance under the Community Development Block Grant (name of specific program) for a project known as (name of project).

If implemented, the proposal will (describe project and include purpose, numbers, linear feet, location, impact are, etc., as appropriate). The purpose of this notice is to inform the public that the proposed project is located in, or impacts, a floodplain. The (name of the unit of local government) is conducting a floodplain impact evaluation to determine if there is a practicable alternative to this proposed development by considering alternate sites, alternative actions, potential mitigation to minimize impacts, and restoration or preservation of the site.

Information on the proposal is available for review on (give days, hours, office location, telephone number) from (name of contact person). Any person may comment on the proposal by sending comments to (name and address of unit of local government) within 15 days of this publication (or give final date for receipt of comments).

***(attach location map with floodplain delineated)***

## **SAMPLE NOTICE (for Step No. 7)**

### **NOTICE OF DECISION OF “NO PRACTICABLE ALTERNATIVE” TO PROPOSED DEVELOPMENT IN THE FLOODPLAIN**

The (name of the unit of local government) published on (date of newspaper notice) in this same newspaper a NOTICE OF A PROPOSED DEVELOPMENT IN A FLOODPLAIN on (name and brief description of the project).

The (name of the unit of local government) has completed a floodplain impact evaluation and it is available for review on (give days, hours, office location, telephone number). This review included consideration of project impacts, site mitigation, restoration or preservation, alternative actions and alternate sites. Specific alternatives considered were (identify alternate sites, alternative actions, mitigations, etc., as appropriate). (If mitigation, restoration, or preservation actions are required, summarize them). The (name of the unit of local government) concludes no practicable alternative exists to the proposal.

Comments may be sent to (name and address of unit of local government) within 7 days of this publication (or give final date for receipt of comments). If no comments are received, the (name of the unit of local government) will conduct an environmental review on the project as described.

***(attach location map with floodplain delineated)***

# Determining your Level of Review

The tasks you must complete during your environmental review depends on the level of review. Under Part 58 of the CDBG environmental regulations (included in the Appendix), projects are divided into different levels of review. They are:

- 58.35(b) Review
- Categorically Excluded, Converted to Exempt
- Categorically Excluded, Not Exempt
- Finding of No Significant Impact.

Each level of review has required documents that must be completed and submitted to OCD before project funds are committed. Similarly, each level of review has a different set of tasks that must be completed by your town to demonstrate compliance with environmental regulations.

The next sections describe the levels of review and include what types of activities fall into each type of review. Action steps are described for each level. These steps must be completed for your community to receive clearance from the Office of Community Development.

## Level of Review: 58.35(b) Review

This level of review is defined through CFR 58.6 and CFR 58.35. Activities categorized as exempt or categorically excluded may require this review level. Flood Disaster Protection Act, Coastal Barriers Resources Act and the HUD Runway Clear Zone are minimal requirements to be met by all activities. If your project is limited to the activities listed below, consult with your assigned DPM to see if this level is appropriate. Eligible actions include:

- Tenant-based rental assistance
- Supportive services like health care, day care and other public service programs
- Operating costs like maintenance, security, utilities, furnishings, supplies, staff training and other incidental costs
- Economic development activities like equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs **not associated with construction (including rehabilitation) or expansion of existing operations**
- Activities to assist homeownership under certain conditions.
- Affordable housing pre-development costs which do not have a physical impact.
- Environmental, planning and strategy studies

If the project includes any physical or structural changes, this level of review is inappropriate. Replacing a window or adding a storm window means the project would not qualify for this level of review. Production increases, a new shift, additional shipments of materials or inventory, extended hours, etc., are considered expansions and a project would not qualify for this level of review.

The examples listed below met requirements and qualified for 58.35(b) Reviews:

- **Community Planning:** Hydrology Study of Brook; Tourism Strategy Development; Cooperative Housing Feasibility Study
- **Public Service:** Inventory and Supplies for Food Cupboard; Adult Education in a Public Housing complex; Job Training for Group Home Residents

### REGULATORY REFERENCE

#### § 58.6 Other requirements.

...the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, **regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35(a) or (b).**

#### (b) Categorical exclusions not subject to § 58.5.

The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. The recipient remains responsible for carrying out any applicable requirements under § 58.6.

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs **not associated with construction or expansion of existing operations;**

(5) Activities to assist homeownership of existing "or new dwelling units not assisted with Federal funds" including closing costs and down payment assistance to home buyers, interest buydowns and similar activities that result in the transfer of title to a property;

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

- **Economic Development:** Equipment Purchase  
Loan for Job Retention; Inventory and Working  
Capital Loan for Job Retention; Skill Upgrading/Job  
Training for Existing Employees

### **Environmental Clearance**

Your community will be given an environmental clearance date by OCD the day AFTER your documentation is considered complete and is accepted by OCD. A letter stating the clearance date will be sent to your community sometime after this date.

Remember you cannot begin your project, obligate any project funds (CDBG or other federal funds), nor spend any project funds until after this clearance date. CDBG funds cannot be spent or obligated until you have executed your grant contract with OCD after successful completion of all Phase II requirements.

### **Documentation to Submit to OCD**

The following are necessary to complete this level of review:

- Environmental Review Statement: 58.35(b)
- 58.35(b) Checklist
- Public Services Physical Impact Checklist (***only for Public Service projects***)
- Verification that the impact of job creation will not expand existing operations. Verification is required that no increase in production volume, transportation of raw materials or finished product, water and sewer usage or other indicators of expansion of operations will occur (***only for economic development projects***)

Blank forms can be found after this page.



## **Maine Community Development Block Grant Program**

### **Environmental Review Statement: 58.35(b)**

---

Project Name: \_\_\_\_\_  
Project Location: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

After consultation with your assigned Development Program Manager or Development Fund Coordinator in the Office of Community Development, the following activities has been reviewed under 24 CFR 58.34(a) and 58.35(b). Project activities listed have been found to be excluded from the provisions of the National Environmental Policy Act (NEPA) and Federal laws and authorities listed in 24 CFR 58.5. Activities have been reviewed and determined in compliance with laws and authorities listed in 24 CFR 58.6 and conditions of 58.35(c). Therefore, in accordance with 24 CFR 58.35(c) and (d), the submission of the following 58.35(b) Environmental Review Summary with appropriate attachments is sufficient evidence that no further environmental action is needed for project execution. This submission serves as a Request for Release of CDBG Funds for project activities. Signature certifies that environmental review responsibilities have been completed as required and information on comments received is included in this submission.

#### **LIST PROJECT ACTIVITIES:**

---

**Signature of Environmental Review Officer**

**Date**

---

**Signature of Chief Executive Officer**

**Date**

---

## 58.35(b) CHECKLIST

PROJECT NAME/LOCATION: \_\_\_\_\_

GRANTEE NAME: \_\_\_\_\_

Statutes, Regulations, Authorities	Not Applicable to Project;	Consultation or Review required	Permits in Hand	Describe/explain/provide basis for compliance decision; identify file documents that back this up; attach supportive materials as needed
Floodplain Management/ Flood Insurance				
Coastal Barriers Resources Act				
Runway Clear Zone				
<b>OTHER APPLICABLE LOCAL, STATE, FEDERAL LAWS/STATUTES/AUTHORITIES</b>				

Signature of Preparer

Telephone Number

Relationship to Grantee

Date Submitted to Grantee

## Maine Community Development Block Grant Program

### 58.35(b) Review *Public Services* Physical Impact Checklist

Project:

Grantee:

Impact Areas	No Impact; No Conflict	Compatible with/ Supportive of Services	Potential Conflicts; Solutions in Place	Requires More Study	Needs Mitigation	Requires Project Modification	Sources or Documentation for Conclusions; Attach supportive descriptions as needed  Each category should have an explanation for the conclusion you reached.
Community Noise Levels							
Solid Waste							
Waste Water							
Water Supply							
Public Safety, Police, Fire, Emergency/ Medical							
Transportation/Parking/ Pedestrian Access							
Site Hazards and Nuisance; Surface Water							
Site Characteristics, such as unique natural features, vegetation and wildlife							
Other							
Other							



Are there any structural changes taking place as a part of this public services project?

☐ Yes

☐ No

Will the public services project require structural changes to take place in the immediate future?

☐ Yes

☐ No

Our checklist review shows no need for a higher level of environmental review for this public services project.

☐ Yes

☐ No

---

**Signature of Preparer**

**Date completed**

**Relationship to Grantee**

---

**Mailing Address**

**Telephone Number**

## Level of Review: Categorically Excluded, Converted to Exempt

This level of review covers a group of activities that involve more intense project activity. These activities (see the following definitions) can be “converted to exempt” of NEPA requirements under some circumstances. Your review of the project and comparison to a series of environmental statutes help determine if the statutes require no mitigation or compliance actions.

This level covers the following types of activities:

- **Public Facilities** – acquisition, repair, improvement reconstruction or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20%
- **Removal of Architectural Barriers** – handicapped access measures
- **Building Rehabilitation** – rehabilitation of buildings and improvements when the following conditions are met:
  - Multi-family structures** – unit density is Not changed more than 20% and the Estimated cost of rehabilitation is less Than 75% of the total estimated cost of replacement after rehabilitation; or
  - Non-residential structures** – the facilities and improvements are in place and will not be changed in size or capacity by more than 20% and the project does not involve a change in land use
- **Residential Action** – an individual action on a one-to-four family structure or an individual action on a project of five or more units on scattered sites when the sites are more than 2000 feet apart and there are not more than four units on any one site
- **Acquisition or Sale** – acquisition or disposition of an existing structure or the acquisition of vacant land provided the structure or land acquired will be retained for the same use
- **Combinations** – combinations of the above activities.

### REGULATORY REFERENCE

#### **§ 58.35 Categorical exclusions.**

Categorical exclusion refers to a category of activities for which **no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except** in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

#### **(a) Categorical exclusions subject to § 58.5.**

The following activities are **categorically excluded** under NEPA, but may be subject to review under authorities listed in § 58.5:

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use **without change in size or capacity of more than 20 percent** (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

#### **(i) In the case of multifamily residential buildings:**

- (A) Unit density is not changed more than 20 percent;
- (B) The project does not involve changes in land use from residential to non-residential; and
- (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

#### **(ii) In the case of non-residential structures, including commercial, industrial, and public buildings:**

- (A) The facilities and improvements are in place **and will not be changed in size or capacity by more than 20 percent**; and
- (B) **The activity does not involve a change in land use**, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

## **Environmental Clearance**

Your community will be given an environmental clearance date by OCD the day AFTER your documentation is considered complete and is accepted by OCD. A letter stating the clearance date will be sent to your community sometime after this date.

Remember you cannot begin your project, obligate any project funds (CDBG or other federal funds), nor spend any project funds until after this clearance date. CDBG funds cannot be spent or obligated until you have executed your grant contract with OCD after successful completion of all Phase II requirements.

## **Documentation to Submit to OCD**

The following are necessary to complete this level of review:

- Environmental Review Statement:  
Categorically Excluded, Converted to Exempt
- Environmental Review and Clearance Record
- Statutory Checklist (with SHPO letter)

Samples of completed forms can be found after this page. Blank forms and Clearance Record outline follow these examples.

*(4) An individual action on a one- to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.*

*(5) Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.*

*(6) Combinations of the above activities.*

## Maine Community Development Block Grant Program

### SAMPLE Environmental Review Statement: Categorically Excluded, Converted to Exempt Review

Project Name: Evergreen Infrastructure and Fire Station Project  
Project Location: Hollyhaven, Maine  
Contact Person: Holly Berry

The following activities have been reviewed under 24 CFR 58.35(a) and have been found to be categorically excluded from the provisions of the National Environmental Policy Act (NEPA). Further review under Section 58.35(c), and 58.35(d) determined that no compliance actions related to laws and authorities listed in Section 58.5 and 58.6 are required and no extraordinary circumstances exist as given in Section 58.2(a)(3). Therefore, in accordance with Sections 58.34(a)(12) and 35(c) and (d), the following Environmental Review and Clearance Record with appropriate attachments is submitted as sufficient evidence that no further environmental action is needed for execution of the project described. This submission serves as a Request for Release of CDBG funds for the categorically excluded and converted to exempt activities identified below. Signature certifies that environmental review responsibilities have been completed as required and information on comments received is included in this submission.

#### LIST PROJECT ACTIVITIES:

*Fire station rehabilitation (existing building, no increase in capacity)*  
(see s. 58.34(a)(3))

*Water Sewer Reconstruction (existing system, no increase in capacity)*  
(see s. 58.34(a)(3))

*Street and Sidewalk Reconstruction (existing)*  
(see s. 58.34(a)(3))

*Administration activities*  
(see 58.35(a)(1))

This level of review is appropriate for this activity as long as it does not result in a capacity increase of more than 20%

Holly Berry  
Signature of Environmental Review Officer

1/13/1998  
Date

Jane Civic, Town Manager  
Signature of Chief Executive

1/13/1998  
Date

# Maine Community Development Block Grant Program Environmental Review Record EXAMPLE for Categorically Excluded, Converted to Exempt

## Project Description

**NAME/TITLE:** Evergreen Infrastructure and Fire Station Project

**Location:** Evergreen Valley, Hollyhaven, Maine

**Contact Person:** Holly Berry, Code Enforcement Officer and Fire Chief  
90210 Green Leaf Ave.  
Hollyhaven, Maine 04451

**Funding Summary:** \$250,000 PFIG  
\$100,000 Town of Hollyhaven  
\$600,000 RDA

**Grantee:** Town of Hollyhaven  
90222 Green Leaf Ave.  
Hollyhaven, ME 04451

*This document should provide a narrative of the process you used to identify project activities, classify them and fit them within the level of review you have chosen.*

## Environmental Review Procedures

### Define and describe project, including aggregation:

The Evergreen project is a public facilities replacement and rehabilitation project. PFIG funded activities are eligible under HUD CDBG program. PFIG, RDA (grant and loan), and Town will fund the project. PFIG activities are: (1) fire station rehabilitation (\$63,000 PFIG, \$48,000 Town); (2) water/sewer replacement (\$120,000 PFIG, \$600,000 RDA); (3) sidewalk and street repaving (\$67,000 PFIG; \$32,000 Town); (4) Administration (\$20,000 Town).

Activities (1)-(4) compose the entire project. These activities are geographically located in the Evergreen Valley neighborhood; functionally, water line replacement allows the Fire Station to have adequate supply and pressure to fulfill needs. Rehabilitation includes shower, rest room, and improved equipment cleaning facilities. Administration of PFIG, RDA and Town funds through the Town's Development Department is logical and functional. No other actions are occurring that could be part of this project.

### Identify Potential Scope of Environmental Review Based on Project Activities

Activity (1) is rehabilitation of a fire station, a public building; activities (2) and (3) are public facilities improvements, involving replacement of water and sewer lines and reconstruction of disturbed surface infrastructure. All three are preliminarily categorically excluded. Appropriate notification has been sent to DECD for project administrator. No additional review is required for administration (activity 4).

### Determine Continuation as Categorically Excluded Project

Activities (2) and (3) reconstruct in-place facilities with no change in use. Both size and capacity of water and sewer replacement will occur; the greatest change is in areas with 2" water lines, which will be replaced with 6" lines. Although change in size and capacity is greater than 20%, the results will be adequate for the existing service area and will not serve or encourage additional

development. Sidewalk and street reconstruction will not change size, capacity, or use. Activities (2) and (3) meet conditions of categorical exclusion of 58.35 (a)(1).

Activity (1) rehabs the Evergreen Fire Station, a public building, and connects the station to public water. Building size or capacity will not increase. The building will continue as a fire station. The only capacity issue is increased water availability and pressure. The fire department had to find other means of cleaning and sanitizing equipment, other sites for bathing and sanitary facilities, etc., after well was contaminated by a failed septic system. Connection to public water will reactivate prior water-dependent activities without a capacity increase of more than 20%. Activity (1) meets conditions of categorical exclusion of 58.35(a)(3)(ii).

### **Statutory Checklist and Review Results**

All activities have gone through Statutory Checklist review and are compliant with laws in 58.5 and 58.6. Documents referenced are in the local files. SHPO letter is attached and FIRM map numbers are indicated. The project is the activities listed, present and future individual and cumulative impacts have been evaluated; alternatives studied; actions and completions scheduled appropriately; and appropriate safeguards taken and included in project/contract documents. No extraordinary circumstances relate to this project, as described in 58.2(a)(3) or found through review.

### **Compliance Actions**

All permits needed are in place, as shown on the Statutory Checklist. DEP permits by rule and review for others needed were completed through joint RDA and CDBG environmental review completions. Local building and plumbing permits are coordinated through contractor/Town efforts and records. Planning Board site and plan reviews were completed some time ago. The project meets requirements for conversion to exempt as allowed in 24 CFR 58.34(a)(12).

### **Document Determination of Exempt Status**

Documents and records in the Town's Development Department support the above descriptions and Statutory Checklist conclusions. The above and attachments reflect the project; submission of this information and materials, as listed, fulfills requirements of 24 CFR 58.35(d). No additional actions are necessary, unless unanticipated conditions arise.

# The Statutory Checklist

The Statutory Checklist is an important piece of your Environmental Review Record. It records the results of your review of statutes; regulations and Executive Orders outlined in 58.5 and 58.6 of the CDBG Environmental Review regulations. Every level of review EXCEPT for the 58.35(b) review must complete this checklist and submit it as part of their environmental review record.

Under 24 CFR 58.5 and 58.6, CDBG grantees must review their projects using the same regulations HUD would otherwise be subject to under the National Environmental Policy Act. This section also lists the regulations and statutes that form the basis of the checklist. On the Statutory Checklist, the first column called "Statutes and Regulations" references these.

To the right of the listing of statutes and regulations are columns for you to record the results of your findings.

- **Not Applicable to this Project –**  
After considering the nature, activities or location of your project, consulting with others, and/or completing compliance requirements, you determine the statute or regulation being examined does not require compliance action beyond what you have shown or done.
- **Consultation Required –**  
Compliance with the statute or regulation requires you to consult with appropriate individuals to determine how or if the statute applies to your project.
- **Review Procedures Required–**  
This category applies where a statute may establish a process of review in addition to your CDBG environmental review.
- **Permit(s) Procedure Required**  
This column signifies that an

## REGULATORY REFERENCES

### § 58.5 Related Federal laws and authorities.

*In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action **that would apply to HUD under the following specified laws and authorities.** The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and **must consider the criteria, standards, policies and regulations of these laws and authorities.***

#### (a) Historic properties.

- (1) The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 et seq.), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2), except as provided in § 58.17 for Section 17 projects.
- (2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921) particularly section 2(c).
- (3) Federal historic preservation regulations as follows: (i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and (ii) 36 CFR part 801 with respect to UDAG.
- (4) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq), particularly section 3 (16 U.S.C. 469a-1).

#### (b) Floodplain management and wetland protection.

- (1) **Executive Order 11988, Floodplain Management, May 24, 1977** (3 CFR, 1977 Comp., p. 117), as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order ...
- (2) **Executive Order 11990, Protection of Wetlands, May 24, 1977** (3 CFR, 1977 Comp., p. 121) particularly sections 2 and 5.

#### (c) Coastal Zone Management. **The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), ...**

#### (d) Sole source aquifers.

- (1) **The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., ...**
- (2) **Sole Source Aquifers** (Environmental Protection Agency, 40 CFR part 149).

#### (e) **Endangered species. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)** as amended, particularly section 7 (16 U.S.C. 1536).

#### (f) **Wild and scenic rivers. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.)** as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

#### (g) **Air quality.**

- (1) **The Clean Air Act (42 U.S.C. 7401 et. seq.)** as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).
- (2) **Determining Conformity of Federal Actions to State or Federal Implementation Plans** (Environmental Protection Agency-- 40 CFR parts 6, 51, and 93).

#### (h) **Farmlands protection.**

- (1) **Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)** particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).
- (2) **Farmland Protection Policy** (Department of Agriculture -- 7 CFR part 658).

#### (i) **HUD environmental standards.** Applicable criteria and standards specified in HUD environmental regulations (24 CFR part 51) (other than the runway clear zone and clear zone notification requirement in 24 CFR 51.303 (a)(3)) and HUD Notice 79-33, Policy Guidance to

additional permit process must be followed to comply with the particular statute and evidence of permits should be attached as part of your ERR. (see next column)

- **Determination of Consistency, Approvals and Permits Obtained** This column is marked when you have received all necessary permits, licenses or approvals and your project is consistent with other requirements in the statute
- **Conditions or Mitigation Action Required** This column allows you to record any actions you must take to ensure that your project conforms to the statute's requirements.

The final column is where you record conversations, correspondence or other facts that support the conclusion you have reached on the particular statute in question. It is important for you to record information received and keep correspondence from any agency you consult to explain the conclusion that you reached and indicated on the Checklist's middle columns. **ALL PROJECTS MUST ATTACH A LETTER FROM THE SHPO ON THE PROJECT.** All projects must give the map and panel number references for floodplain compliance.

The Environmental Review Contact List identifies persons at agencies available for compliance review assistance.

24 CFR 51.303 (a)(3)) and HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979).

(j) **Environmental justice.** Executive Order 12898 -- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629).

#### § 58.6 Other requirements.

In addition to the duties under the laws and authorities specified in § 58.5 for assumption by the responsible entity under the laws cited in § 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(11) and/or the applicability of § 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, **regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35(a) or (b).**

(a)(1) Under the **Flood Disaster Protection Act of 1973**, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

- (i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and
- (ii) Flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where a recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Pursuant to the **Coastal Barrier Resources Act**, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

(c) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a **Runway Clear Zone** or **Clear Zone**, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.



# Maine Community Development Block Grant Program

## Environmental Review - Statutory Checklist

**PROJECT NAME:** *Evergreen Infrastructure and Fire Station*

**GRANTEE NAME:** *Hollyhaven*

<b>Statutes and Regulations</b>	<b>Not Applicable to this project</b>	<b>Consultation Required</b>	<b>Review required</b>	<b>Permits required</b>	<b>Consistency and approvals determined: Permits in Hand</b>	<b>Requires mitigating actions; special conditions apply</b>	<b>Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed</b>
Historic Properties (attach letter from SHPO)	X	X					Fire station not historic; infrastructure not invasive re: historical or archaeological entities. SHPO letter verifies.
Floodplain Management/ Flood Insurance (if in floodplain, attach letter from SPO)	X						FIRM review shows infrastructure and fire station <u>all</u> away from floodplain. Panel H Map 14.
Wetlands Protection	X	X					USGS map with location marked reviewed – no wetlands; DEP confirmed.
Coastal Zone Management	X						Inland – not in CZ
Coastal Barriers	X						Town not on CBRS list referenced by Marine Geologist
Water Quality-Aquifers	X						Public water; sewer improvements will protect; no aquifer.
Wild and Scenic Rivers	X						Not in Allagash vicinity.
Air Quality	X						No asbestos in fire station; no asbestos pipes – engineer letter.
Farmlands Protection Act	X						No conversion of prime farmlands.
Endangered/Threatened Species	X						No impact as shown by memo from State biologist.
Essential Wildlife Habitat/Fish and Wildlife	X						Town not on Maine IFW Essential Wildlife Habitat; project does not disturb undeveloped area..
Environmental Justice	X		town-	wide	56%	LMI	Town-wide positive benefit; 56% LMI. Environs impact unchanged
Airport Clear Zone	X		target	area	66%	LMI	Not in flight zone.
Solid Waste Disposal	X						Contracted service; construction desires in contract.
Water Quality and State Safe Drinking Water Law	X			X			Public water supply improved and protected. Permit by Rule.

Comments in this column should explain your conclusion and reference supporting documents

Statutes and Regulations	Not Applicable to this project	Consultation Required	Review required	Permits required	Consistency and approvals determined: Permits in Hand	Requires mitigating actions; special conditions apply	Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed
Protection of Waters	X						No overboard discharges.
Site Location Law	X						Existing infrastructure replacement; no capacity increase.
Natural Resources Protection Act	X	X					No wetlands involvement.
Submerged Land Law	X						Not in submerged/tidal lands.
Subsurface Wastewater Disposal	X				X		Public sewer improvements; DEP Permit by Rule.
Protection of Air Act	X						BMP included in construction contracts – no impact anticipated.
<b>MANMADE HAZARDS</b>							
Thermal/Explosive	X						None in project area.
Noise	X						Compliance noted to HUD and DEP requirements by engineer.
Toxic Sites	X						None in project area.
<b>OTHER LOCAL, STATE, FEDERAL LAWS OR STATUTES APPLICABLE TO PROJECTS</b>							

Holly Berry

Signature of Preparer

555-1212

Telephone Number

Employee

Relationship to Grantee

1/12/1998

Date



## **Maine Community Development Block Grant Program**

### **Environmental Review Statement: Categorically Excluded, Converted to Exempt Review**

Project Name: \_\_\_\_\_  
Project Location: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

The following activities have been reviewed under 24 CFR 58.34(a) and have been found to be categorically excluded from the provisions of the National Environmental Policy Act (NEPA). Further review under Section 58.35(c) and 58.35(d) determined that no compliance actions related to laws and authorities listed in Section 58.5 and 58.6 are required and no extraordinary circumstances exist as given in Section 58.2(a)(3). Therefore, in accordance with Sections 58.34(a)(12) and 35(c) and (d), the following Environmental Review and Clearance Record with appropriate attachments is submitted as sufficient evidence that no further environmental action is needed for execution of the project described. This submission serves as a request for release of CDBG funds for the categorically excluded and converted to exempt activities identified below. Signature certifies that environmental review possibilities have been completed as required and information on comments received is included in this submission.

#### **LIST PROJECT ACTIVITIES:**

---

Signature of Environmental Review Officer

Date

---

Signature of Chief Executive Officer

Date

## **Maine Community Development Block Grant Program**

---

### **Environmental Review and Clearance Record-Categorically Excluded, Converted to Exempt**

#### **Project Description**

**Name/Title:**

**Location**

**Contact Person:**

**Funding Summary**

**Grantee and Address:**

Define and describe project, including aggregation:

Identify potential scope of environmental review based on project activities:

Determine continuation as categorically excluded:

Statutory Checklist and review results:

Compliance actions:

Document determination of exempt status:

# Maine Community Development Block Grant Program

## Environmental Review - Statutory Checklist

**PROJECT NAME:**

**GRANTEE NAME:**

<b>Statutes and Regulations</b>	<b>Not Applicable to this project</b>	<b>Consultation Required</b>	<b>Review required</b>	<b>Permits required</b>	<b>Consistency and approvals determined: Permits in Hand</b>	<b>Requires mitigating actions; special conditions apply</b>	<b>Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed</b>  <b>Comments in this column should explain your conclusion and reference supporting documents.</b>
Historic Properties (attach letter from SHPO)							
Floodplain Management/ Flood Insurance (if in floodplain, attach letter from SPO)							
Wetlands Protection							
Coastal Zone Management							
Coastal Barriers							
Water Quality-Aquifers							
Wild and Scenic Rivers							
Air Quality							
Farmlands Protection Act							
Endangered/Threatened Species							
Essential Wildlife Habitat/Fish and Wildlife							
Environmental Justice							
Airport Clear Zone							
Solid Waste Disposal							
Water Quality and State Safe Drinking Water Law							

<b>Statutes and Regulations</b>	<b>Not Applicable to this project</b>	<b>Consultation Required</b>	<b>Review required</b>	<b>Permits required</b>	<b>Consistency and approvals determined: Permits in Hand</b>	<b>Requires mitigating actions; special conditions apply</b>	<b>Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed</b>
Protection of Waters							
Site Location Law							
Natural Resources Protection Act							
Submerged Land Law							
Subsurface Wastewater Disposal							
Protection of Air Act							
<b>MANMADE HAZARDS</b>							
Thermal/Explosive							
Noise							
Toxic Sites							
<b>OTHER LOCAL, STATE, FEDERAL LAWS OR STATUES APPLICABLE TO PROJECTS</b>							

Signature of Preparer

Telephone Number

Relationship to Grantee

Date

# Level of Review: Categorically Excluded, Not Exempt

This level of review is required when one of the following is present in your project:

- The specific site of your project is unknown at Phase II (housing rehabilitation or micro-loan)
- A MINOR compliance action is identified by your statutory checklist or environmental assessment

**Most CDBG projects do not fit into this category - it is most commonly used by Housing Assistance and Micro-Loan grantees.** When categorically excluded activities cannot meet all requirements and cannot become exempt, as in the case of unspecified housing sites or as yet undetermined loan recipients, additional review actions are needed. The review may be of sites as they are specified or it may be additional or follow-up evaluation; procedures require a public notice and other actions as necessary. The Maine CDBG Program requires the notice be published in the newspaper

## Local Comment Period

This level of review requires a 7-day comment period. This period allows members of the community to review your ERR and make comments on the project. Your Notice of Intent to Request Release of Funds publicizes the comment period. The comment period begins the day AFTER your notice is published in the newspaper and continues for 7 days.

## State Objection Period

Once your ERR is sent to OCD, a state objection period begins the day AFTER your package is received at OCD and continues for 15 days.

## Environmental Clearance

Your community will be given an environmental clearance date by OCD (assuming your ERR is acceptable) the day AFTER the 15-day state objection period

## REGULATORY REFERENCES

*(Note: this regulatory section is provided to illustrate the limits of converting a categorically excluded activity to exempt. You must meet all requirements in this section to use the previous level of review. **To use this level of review, Categorically Excluded, Not Exempt, your project must either have an unidentified site or a required minor compliance action.**)*

### § 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which **no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except** in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

**(a) Categorical exclusions subject to § 58.5.** The following activities are **categorically excluded** under NEPA, but may be subject to review under authorities listed in § 58.5:

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use **without change in size or capacity of more than 20 percent** (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

**(i) In the case of multifamily residential buildings:**

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use from residential to non-residential; and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

**(ii) In the case of non-residential structures, including commercial, industrial, and public buildings:**

(A) The facilities and improvements are in place **and will not be changed in size or capacity by more than 20 percent;** and

(B) **The activity does not involve a change in land use**, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4) An individual action on a one- to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.

(5) Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.

**(6) Combinations of the above activities.**

### § 58.45 Public comment periods.

(a) Notice of finding of no significant impact: 15 days from date of publication or if no publication, 18 days from the date of mailing and posting.

(b) Notice of intent to request release of funds: 7 days from date of publication or if no publication, 10 days from date of mailing and posting.

AFTER the 15-day state objection period ends. A letter stating the clearance date will be sent to your community sometime after this date.

Remember you cannot begin your project, obligate any project funds (CDBG or other federal funds), nor spend any project funds until after this clearance date. CDBG funds cannot be spent or obligated until you have executed your grant contract with OCD after successful completion of all Phase II requirements.

### **Documentation to Submit to OCD**

The following are necessary to complete this level of review:

- Environmental Review Statement: Categorically Excluded, Not Exempt
- Request for Release of Funds/Certification Form
- Statutory Checklist (with SHPO letter)
- Notice of Intent to Request Release of Funds from the newspaper
- Information on comments received and how they were resolved

Samples of completed forms can be found after this page. Blank forms follow these examples.

(c) *Concurrent or combined notices:* Same as FONSI notice.

#### **§ 58.70 Notice of intent to request release of funds.**

*The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.*

#### **§ 58.71 Request for release of funds and certification.**

*(a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.*

*(b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.*

*(c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.*

#### **§ 58.73 Objections to release of funds.**

*HUD (or the State) will not approve the ROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. ...*

#### **§ 58.74 Time for objecting.**

*All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.*



## Maine Community Development Block Grant Program

### EXAMPLE of Environmental Review Statement: Categorically Excluded, Not Exempt

<b>Project Name:</b>	Dutch Street Refoliation and Revitalization Project
<b>Project Location:</b>	Dutch St. neighborhood, bordered by Gypsy, Rose Lee and Dutch Sts., Elmvile
<b>Contact Person:</b>	Robin Birdsong/Jay Wren

The following activities have been reviewed under 24 CFR 58.35(a) and **have been found to be categorically excluded** from the provisions of the National Environmental Policy Act (NEPA). **All the related laws and authorities cited in Section 58.5 and 58.6 cannot be applied to these activities until sites are specified and remaining compliance reviews completed for those sites.** Therefore, Release of Funds (ROF) as well as further environmental review requirements is necessary.

This text indicates the basis for choosing this level of review, the specific project sites have not been identified beyond the neighborhood designation.

Attached is the Statutory Checklist completed for the laws and authorities that can be applied to project activities. Laws and authorities that cannot be applied until sites are specified are identified. The Statutory Checklist reviews will be completed for each specific site and appropriate action taken in compliance with ERR requirements. Signature certifies that information on comments received and responses made are included in this submission.

#### LIST PROJECT ACTIVITIES:

##### **Housing Rehabilitation:**

Housing rehabilitation programs must use this level of review unless all rehabilitation sites are known at the beginning of the project.

**Tree Planting: Categorically Excluded, Converted to Exempt (already cleared)**

**General and Housing Rehabilitation Administration:**

These activities have been cleared in an earlier submission, probably to access needed administration money and so tree planting could begin.

Robin Birdsong

**Signature of Environmental Review Officer**

7/7/1996

**Date**

Jay Wren

**Signature of Chief Executive Officer**

7/9/1996

**Date**

## Maine Community Development Block Grant Program

### EXAMPLE of SITE LIST IDENTIFYING LOCAL ERR CLEARANCES CATEGORICALLY EXCLUDED, NOT EXEMPT PROJECT

ERR Categories requiring clearance:

Sites/Location Assisted	Dates and Areas cleared for ERR	Date of Initial Assistance
Lot 47 (Gypsy)	6/9-SHPO(State Historic Preservation Office) 6/9-FEMA 6/12-Aquifer	7/10
Lot 22 (Gypsy)	6/9-SHPO (State Historic Preservation Office) 7/12(elevate)-FEMA 6/12-Aquifer	8/4
Lot 52 (Lee)	6/9-(spec) SHPO (State Historic Preservation Office) 6/9-FEMA 6/12-Aquifer	7/7
Lot 42 (Gypsy)	6/9-SHPO (State Historic Preservation Office) 6/9-FEMA 6/12-Aquifer	Beyond rehab. Replacement
Lot 17 (Dutch)	7/3(spec)-SHPO (State Historic Preservation Office) 7/26(elevate)-FEMA 6/12-Aquifer	8/7

(copy and add additional pages as necessary)

*This document allows you to update your general ERR to reflect the sites you have chosen for your project. Each lot noted is checked for compliance with the requirements in 58.5 and 58.6. Your statutory checklist should have noted the need to update these areas once specific sites were selected.*

# Maine Community Development Block Grant Program

## EXAMPLE of Environmental Review - Statutory Checklist

PROJECT NAME: *Refoliation/Revitalization*

GRANTEE NAME: *Elmville*

Statutes and Regulations	Not Applicable to this project	Consultation Required	Review required	Permits required	Consistency and approvals determined: Permits in Hand	Requires mitigating actions; special conditions apply	Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed
Historic Properties (attach letter from SHPO)	Need site review	X	X	X	Specific Site Review Needed		
Floodplain Management/ Flood Insurance (if in floodplain, attach letter from SPO)	Need site review	X	X	X	Specific Site Review Needed		
Wetlands Protection	Need site review	X	X	X	Applies only to crossings on the Langley Rd., affecting wetlands. Nationwide permit, US Army Corp.		
Coastal Zone Management	X				Project not located in a CZM. USGS Map in file.		
Coastal Barriers	X				Project not located near any coastal barriers. USGS Map in file.		
Water Quality-Aquifers	X	X			No water quality issues as per CEO/LPI.		
Wild and Scenic Rivers	X				Not located anywhere close to the Alagash River or area.		
Air Quality	X	X			Control of fugitive emissions required through BMP. Letter C. Wheeler 6/14/91.		
Farmlands Protection Act	X				No prime or protected farmland within the project area; site inspection, soil map.		
Endangered/Threatened Species	X				Project will not affect Federally Listed Endangered or threatened species. Letter G. Beckett 10/31/02. Ref. to Maine IFW.		
Essential Habitat/Fish and Wildlife	X				Location appeared in proximity to Essential Wildlife; No impact, no compliance requirement; confirmed by Memo to File re: Maine IFW contact.		
Environmental Justice	X				Positive benefit for eligible participants; LMI target area & homes.		
Airport Clear Zone	X				No airports or approaches near any element of project. File map.		
Solid Waste Disposal	X				Minimal increase. All disposals will be at licensed landfill. See municipal agreement with landfill.		

Statutes and Regulations	Not Applicable to this project	Consultation Required	Review required	Permits required	Consistency and approvals determined: Permits in Hand	Requires mitigating actions; special conditions apply	Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed
Protection of Waters	X						No OBD related to this project, see narrative.
Site Location Law	X						Project is exempt from review under site law. See statutory reference to exempt activities.
Natural Resources Protection Act	X	X	X	X	X		Road stream crossing only requires permit-by-rule in accordance w/ Chpt. 305. See file note.
Submerged Land Law	X						Project will not occur near any submerged tidal lands. See files and USGS Topo map.
Subsurface Wastewater Disposal	X				X		All necessary permits for subsurface obtained prior to installation.
Protection of Air Act	X	X					Control of fugitive emissions required through BMP. Letter C. Wheeler 6/14/91.
<b>MANMADE HAZARDS</b>							
Thermal/Explosive	X						No storage of explosives near project. No change in traffic/transport of hazardous materials. Site inspection.
Noise	X						Transient noise during road construction. Low density development area. Letter from M. Fraser.
Toxic Sites	Need site review						No asbestos known – specific site review needed
<b>OTHER LOCAL, STATE, FEDERAL LAWS OR STATUTES APPLICABLE TO PROJECTS</b>							
State Plumbing Code				X			Internal plumbing permit obtained prior to completion

*Robin Birdsong*

777-1111

Environ. Review Officer 7/9/1996

Signature of Preparer

Telephone Number

Relationship to Grantee

Date



## Maine Community Development Block Grant Program

### EXAMPLE of Request for Release of Funds (RROF) and Certification Form

<b>1. Program Title: Maine Community Development Block Grant Program</b>		<b>OMB Catalog No.</b>
		14.228
<b>2. Name and Address of Recipient:</b>	Town of Elmville 6767 Gypsy Moth Drive Elmville, Maine 04666	
<b>3. For Information Contact:</b>	Robin Birdsong/Jay Wrenn 121-2555	
<b>4. Date of this Request:</b>	June 4, 1993	
<b>5. Project Dates:</b>	Application submission 10/15/95 Phase II invitation 1/15/96 Contract Executed 8/25/96	

#### Part 1. Request for Release of Funds

**6. Send Request to:** Department of Economic and Community Development (OCD)  
33 Stone St., 59 State House Station  
Augusta, ME 04333-0059

The recipient of assistance listed above requests the removal of environmental conditions and the release of grant funds for the following:

<b>7. Program/Project Name:</b> Dutch St. Refoliation and Revitalization Project	<b>8. Location/Address of Program/Project:</b> Dutch St. neighborhood, bordered by Gypsy, Rose, Lee and Dutch Sts.
---	---

#### 9. Program Activity/Project description:

Housing rehabilitation, tree planting, approximately 17 homes will be rehabilitated through CDBG program. Approximately 35 Dutch Elm trees will be planted in the area. All eligible homes will be evaluated for compliance with flood zone and historic preservation requirements.

#### Part 2. Environmental Certification

With reference to the above Program Activity/Project, I, the undersigned Officer of the recipient, certify that: (a) the recipient has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named above. (b) The recipient has complied with National Environmental Policy Act of 1969, as amended, and with the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5 and 58.6. (c) The recipient has taken or will take into account the environmental criteria, standards, permit requirements and other obligations applicable to the project or program activity under other Federal, State and local laws that the recipient has the direct responsibility to comply with. (d) The recipient has provided the State Historic Preservation Officer and the Secretary of the Interior an opportunity to act with respect to properties which the recipient believes are affected by the project and are eligible for the National Register of Historic Places (Section 119[m], HCD Act of 1974, as amended). (e) After considering the type and degree of environmental effects identified by the environmental review completed for the enclosed project described in Part 1 of this request, I have found that the proposal ~~(did)~~ (did not) require the preparation and dissemination of an environmental impact statement. (f) The recipient has, prior to submitting this request for the release of funds and certification,

published in the manner prescribed by 24 CFR 58.43 a notice to the public in accordance with 24 CFR 70 and as evidenced by the attached copy. **(g)** The date upon which all statutory and regulatory time periods for review, comment or other action, following completion of the environmental review for the project/program activity, **began and ended as indicated below** in compliance with the procedures and requirements of 24 CFR 58.

**Check level of review:**

- ☐ **Notice of Intent to Request a Release of Funds (Categorically Excluded, Not Exempt, 7- day local comment period)**

<b>Date Published in Newspaper</b>	<b>Comment Period</b>
6/6/96	Date began: 6/7/96
	Date ended: 6/13/96

- ☐ **Combined Notice: Finding of No Significant Impact and Intent to request Release of Funds (Nonexcluded/FONSI, 15 – day local comment period)**

<b>Date Published in Newspaper</b>	<b>Comment Period</b>
	Date began:
	Date ended:

- ☐ **Notice of Finding of No Significant Impact**

<b>Date Published in Newspaper</b>	<b>Comment Period</b>
	Date began:
	Date ended:

- ☐ **Notice of Intent to Prepare an EIS**

<b>Date Published in Newspaper</b>	<b>Comment Period</b>
	Date began:
	Date ended:

**15-DAY STATE OBJECTION PERIOD (ESTIMATED BY GRANTEE)**

<b>DATE SENT TO DECD:</b> 6/14/96	<b>DATE BEGAN:</b> 6/17/96	<b>DATE ENDED:</b> 7/1/96
--------------------------------------	-------------------------------	------------------------------

**As the duly designated certifying official of the grantee/recipient, I also certify that:**

(a) I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of Law designated in the 24 CFR 58.5 and 58.6 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making, and actions that have been assumed by the grantee/recipient;

(b) by so consenting, I have assumed the responsibilities for the conduct of environmental review, decision-making, and actions as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements, and lead agency or cooperating agency responsibilities for preparation of such statements on behalf of federal agencies including HUD, when these agencies consent to such assumptions; and

(c) I am authorized to act and do accept, on behalf of the recipient and personally, the jurisdiction of the federal courts for the enforcement of all these responsibilities, in my capacity as Chief Executive Officer/certifying officer of the grantee/recipient.

**Signature of Chief Executive Officer of  
Grantee/Recipient**

**Address:**  
Elmville Town Office  
6767 Gypsy Moth Drive  
Elmville, ME 04666

**Jay Wren**

**Title: Town Administrator**

**Warning: Section 1001 of Title 18 of the United States Code and the Criminal Procedure shall apply to this certification. Title 18 provides, among other things, that whoever knowingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any manner within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years or both. Adapted HUD-7015.15 (9-88)**

## Maine Community Development Block Grant Program

### Notice of Intent to Request a Release of Funds *(for publication)*

Date of Notice: **June 6, 1996**

Grantee: **Elmville Town Office**

Address: **6767 Gypsy Moth Drive**

**Elmville, Maine 04666**

Telephone: **(207) 555-2121**

On or about June 14, 1996, the Town/City of Elmville will submit a request to the Department of Economic and Community Development (OCD) for the release of CDBG funds under Title I of the Housing and Community Development Act of 1974, as amended, to undertake the Dutch St. Refoliation and Revitalization Project for Housing Rehabilitation, tree planting. Gypsy, Rose, Lee and Dutch Sts border Dutch St. neighborhood. Approximately 17 homes will be rehabilitated. Compliance with flood and historic requirements will be reviewed locally for specified sites. Total project cost estimate (cash and value of donations) is \$460,0000.

The activities proposed are categorically excluded under the HUD regulations at 24 CFR Part 58 from the National Environmental Policy Act requirements concerning preparation of an environmental assessment, provided the additional local reviews described above and in the Environmental Review Record (ERR) are completed. An ERR that documents the environmental determinations for this project is on file at the **Elmville Town Office, 6767 Gypsy Moth Drive, Elmville, ME** and may be examined or copied weekdays from **8am to 5pm Monday through Friday. Call (207) 555-2121** for general information.

#### Public Comments

Any individual, group, or agency, disagreeing with this determination or wishing to comment may submit written comments on the ERR to the **Town of Elmville** at the above address. All comments received by **June 13, 1996** will be considered by the **Town of Elmville** prior to authorizing a request for release of funds.

#### Release of Grant Funds

The **Town of Elmville** certifies to DECD that **Jay Wren** in his official capacity as Chief Executive Officer consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process, and that these responsibilities have been satisfied. DECD's acceptance of the certification satisfies its responsibilities under NEPA and related laws and allows the **Town of Elmville** to use Program funds.

#### Objections to Release of Funds

DECD will accept objections to its release of funds and the **Town of Elmville** certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if it is on one of the following bases: **(a)** the certification was not executed by the Chief Executive Officer of the **Town of Elmville**; **(b)** the ERR indicates omission of a required step, decision or finding required by 24 CFR Part 58; **(c)** the grant recipient or other participants in the development process have incurred costs or undertaken project activities not authorized by 24 CFR Part 58 before approval of a release of funds by DECD; or **(d)** another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be address to DECD at 59 State House Station, Augusta, ME 04333-0059. Potential Objectors should contact DECD to verify the actual last day of the objection period.

**Jay Wren** Town of Elmville 6767 Gypsy Moth Drive, Elmville, ME 04666  
Chief Executive Officer Address





**Maine Community Development Block Grant Program  
Environmental Review Statement: Categorically Excluded, Not Exempt**

Project Name: \_\_\_\_\_  
Project Location: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

The following activities have been reviewed under 24 CFR 58.35(a) and have been found to be categorically excluded from the provisions of the National Environmental Policy Act (NEPA). All the related laws and authorities cited in Section 58.5 and 58.6 cannot be applied to these activities until sites are specified and remaining compliance reviews completed for those sites. Therefore, Release of Funds (ROF) as well as further environmental review requirements is necessary.

Attached is the Statutory Checklist completed for the laws and authorities that can be applied to project activities. Laws and authorities that cannot be applied until sites are specified are identified. The Statutory Checklist reviews will be completed for each specific site and appropriate action taken in compliance with ERR requirements. Signature certifies that information on comments received and responses made are included in this submission.

LIST PROJECT ACTIVITIES:

---

**Signature of Environmental Review Officer** **Date**

---

**Signature of Chief Executive Officer** **Date**

**Maine Community Development Block Grant Program**  
**SITE LIST IDENTIFYING LOCAL ERR CLEARANCES**  
**CATEGORICALLY EXCLUDED, NOT EXEMPT PROJECT**

---

**ERR Categories requiring clearance:**

<b>Sites/Location Assisted</b>	<b>Dates and Areas cleared for ERR</b>	<b>Date of Initial Assistance</b>

*(copy and add additional pages as necessary)*

# Maine Community Development Block Grant Program

## Environmental Review - Statutory Checklist

PROJECT NAME:

GRANTEE NAME:

<b>Statutes and Regulations</b>	<b>Not Applicable to this project</b>	<b>Consultation Required</b>	<b>Review required</b>	<b>Permits required</b>	<b>Consistency and approvals determined: Permits in Hand</b>	<b>Requires mitigating actions; special conditions apply</b>	<b>Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed</b>
Historic Properties (attach letter from SHPO)							
Floodplain Management/ Flood Insurance (if in floodplain, attach letter from SPO)							
Wetlands Protection							
Coastal Zone Management							
Coastal Barriers							
Water Quality-Aquifers							
Wild and Scenic Rivers							
Air Quality							
Farmlands Protection Act							
Endangered/Threatened Species							
Essential Habitat/Fish and Wildlife							
Environmental Justice							
Airport Clear Zone							
Solid Waste Disposal							
Water Quality and State Safe Drinking Water Law							

<b>Statutes and Regulations</b>	<b>Not Applicable to this project</b>	<b>Consultation Required</b>	<b>Review required</b>	<b>Permits required</b>	<b>Consistency and approvals determined: Permits in Hand</b>	<b>Requires mitigating actions; special conditions apply</b>	<b>Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed</b>
Protection of Waters							
Site Location Law							
Natural Resources Protection Act							
Submerged Land Law							
Subsurface Wastewater Disposal							
Protection of Air Act							
<b>MANMADE HAZARDS</b>							
Thermal/Explosive							
Noise							
Toxic Sites							
<b>OTHER LOCAL, STATE, FEDERAL LAWS OR STATUTES APPLICABLE TO PROJECTS</b>							

Signature of Preparer

Telephone Number

Relationship to Grantee

Date

## Maine Community Development Block Grant Program

### Notice of Intent to Request a Release of Funds for

Date of Notice: \_\_\_\_\_

Grantee: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

On or about \_\_\_\_\_, the Town/City of \_\_\_\_\_ will submit a request to the Department of Economic and Community Development (OCD) for the release of CDBG funds under Title I of the Housing and Community Development Act of 1974, as amended, to undertake the project known as: \_\_\_\_\_ for the purpose of \_\_\_\_\_

Total estimated funding is: \_\_\_\_\_

The activities proposed are categorically excluded under the HUD regulations at 24 CFR Part 58 from National Environmental Policy Act requirements concerning preparation of an environmental assessment, provided the additional local reviews described above and in the Environmental Review Record (ERR) are completed. An ERR that documents the environmental determinations for this project is on file at: \_\_\_\_\_

Grantee: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

The ERR may be examined or copied weekdays from \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m.

#### Public Comments

Any individual, group, or agency, disagreeing with this determination or wishing to comment may submit written comments on the ERR to the Town/City of \_\_\_\_\_ at the above address. All comments received by \_\_\_\_\_ will be considered by the Town/City of \_\_\_\_\_ prior to authorizing a request for release of funds.

#### Release of Grant Funds

The Town/City of \_\_\_\_\_ certifies to DECD that (Chief Executive Officer) \_\_\_\_\_ in his/her official capacity consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process, and that these responsibilities have been satisfied. DECD's acceptance of the certification satisfies its responsibilities under NEPA and related laws and allows the Town/City of \_\_\_\_\_ to use Program funds.

#### Objections to Release of Funds

DECD will accept objections to its release of funds and the Town/City certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if an objection is on one of the following bases: **(a)** the certification was not executed by the Chief Executive Officer of the Town/City of \_\_\_\_\_; **(b)** the ERR indicates omission of a required step, decision or finding required by 24 CFR Part 58; **(c)** the grant recipient or other participants in the development process have incurred costs or undertaken project activities not authorized by 24 CFR Part 58 before acceptance of the release of funds by DECD; or **(d)** another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58.76) and shall be address to DECD at 59 State House Station, Augusta, ME 04333-0059. Potential Objectors should contact DECD to verify the actual last day of the objection period.

Chief Executive Officer \_\_\_\_\_

Address \_\_\_\_\_



**Maine Community Development Block Grant Program**  
**Request for Release of Funds (RROF) and Certification Form**

<b>1. Program Title: Maine Community Development Block Grant Program</b>		<b>OMB Catalog No.</b> 14.228
<b>2. Name and Address of Recipient:</b>		
<b>3. For Information Contact:</b>		
<b>4. Date of this Request:</b>		
<b>5. Project Dates:</b>		

<b>Part 1. Request for Release of Funds</b>
<b>6. Send Request to: Department of Economic and Community Development (OCD)</b> 33 Stone St., 59 State House Station Augusta, ME 04333-0059

The recipient of assistance listed above requests the removal of environmental conditions and the release of grant funds for the following:

<b>7. Program/Project Name:</b>	<b>8. Location/Address of Program/Project:</b>

<b>9. Program Activity/Project description:</b>

<b>Part 2. Environmental Certification</b>
--

With reference to the above Program Activity/Project, I, the undersigned Officer of the recipient, certify that: (a) the recipient has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named above. (b) The recipient has complied with National Environmental Policy Act of 1969, as amended, and with the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5 and 58.6. (c) The recipient has taken or will take into account the environmental criteria, standards, permit requirements and other obligations applicable to the project or program activity under other Federal, State and local laws that the recipient has the direct responsibility to comply with. (d) The recipient has provided the State Historic Preservation Officer and the Secretary of the Interior an opportunity to act with respect to properties which the recipient believes are affected by the project and are eligible for the National Register of Historic Places (Section 119[m], HCD Act of 1974, as amended). (e) After considering the type and degree of environmental effects identified by the environmental review completed for the enclosed project described in Part 1 of this request, I have found that the proposal (did) (did not) require the preparation and dissemination of an environmental impact statement. (f) The recipient has, prior to submitting this request for the release of funds and certification,

published in the manner prescribed by 24 CFR 58.43 a notice to the public in accordance with 24 CFR 70 and as evidenced by the attached copy. **(g)** The date upon which all statutory and regulatory time periods for review, comment or other action, following completion of the environmental review for the project/program activity, **began and ended as indicated below** in compliance with the procedures and requirements of 24 CFR 58.

**Check level of review:**

- ☐ **Notice of Intent to Request a Release of Funds (Categorically Excluded, Not Exempt, 7- day local comment period)**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☐ **Combined Notice: Finding of No Significant Impact and Intent to request Release of Funds (Nonexcluded/FONSI, 15 – day local comment period)**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☐ **Notice of Finding of No Significant Impact**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☐ **Notice of Intent to Prepare an EIS**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

**15-DAY STATE OBJECTION PERIOD (ESTIMATED BY GRANTEE)**

<b>DATE SENT TO DECD:</b>	<b>DATE BEGAN:</b>	<b>DATE ENDED:</b>
---------------------------	--------------------	--------------------

**As the duly designated certifying official of the grantee/recipient, I also certify that:**

(a) I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of Law designated in the 24 CFR 58.5 and 58.6 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making, and actions that have been assumed by the grantee/recipient;

(b) by so consenting, I have assumed the responsibilities for the conduct of environmental review, decision-making, and actions as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements, and lead agency or cooperating agency responsibilities for preparation of such statements on behalf of federal agencies including HUD, when these agencies consent to such assumptions;

(c) I am authorized to act and do accept, on behalf of the recipient and personally, the jurisdiction of the federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the grantee/recipient.

---

Signature of Chief Executive Officer of Grantee/Recipient

Title

---

Address:

**Warning: Section 1001 of Title 18 of the United States Code and the Criminal Procedure shall apply to this certification. Title 18 provides, among other things, that whoever knowingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any manner within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years or both. Adapted HUD-7015.15 (9-88)**



# Level of Review: Finding of No Significant Impact

If your project does not fit into any of the previous categories, or if your project involves one of the following activities, you must perform a Non--Excluded/FONSI level of review.

This level covers the following:

- New construction of buildings, public facilities and improvements, including extensions
- Rehabilitation or other work on existing buildings for a change in use
- Projects resulting in a change of capacity of more than 20%
- Site development
- Demolition

The phrase "non-excluded/FONSI" means that this level of review is a NEPA review, that is, a National Environmental Policy Act (NEPA) review. This level of review requires the preparation of an additional checklist called an "Environmental Assessment" and a longer (15-day) local comment period. Remember, if your project is in a floodplain, additional review is required before your ERR can be published.

Under regulations at 58.36 and 37 and Subpart E 58.40, communities doing projects with these types of activities must complete the Environmental Assessment and decide, based on the Assessment whether their project will have "no significant impact" or "significant impact" on the environment. The regulations require a further Environmental Impact Statement (EIS) if it is determined that the project will have "significant impact".

It is unlikely that your project would be found to have "significant impact" and therefore require an EIS. If you have questions about this, contact your Development Program Manager.

## Local Comment Period

This level of review requires a 15-day comment period. This period allows members of the community to review your ERR and make comments on the project. The comment period is publicized by your Notice of Intent to Request

## REGULATORY REFERENCES

### **§ 58.36 Environmental assessments.**

***If a project is not exempt or categorically excluded under §§ 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under § 58.37, the responsible entity should proceed directly to an EIS.***

### **Requirements for the Environmental Assessment**

#### **Subpart E--Environmental Review Process: Environmental Assessments (EAs)**

#### **§ 58.40 Preparing the environmental assessment.**

*The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:*

*(a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.*

*(b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.*

*(c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in § 58.5 & 58.6.*

*(d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.*

*(e) Examine alternatives to the project itself, if appropriate, including the alternative of no action.*

*(f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §§ 58.5 and 58.6.*

## **FINDING OF NO SIGNIFICANT IMPACT:**

***(g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:***

***(1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to § 58.43.***

Release of Funds and Finding of No Significant Impact. At the same time, copies of the above notice are sent to individuals and groups on your dissemination list. The Maine CDBG program requires the notice to be published in the newspaper. The comment period begins the day AFTER your notice is published in the newspaper and continues for 15 days.

### State Objection Period

Once your ERR is sent to OCD, a state objection period begins the day AFTER your package is received at OCD and continues for 15 days.

### Distribution to Interested Parties

If you are performing a FONSI level review, you must send a copy of your notice of a Finding of No Significant Impact to “individual and groups known to be interested in the activities” (24 CFR 58.43). The following is a list of suggested interested parties. You should add to or adapt this list to the focus of your activities and project.

- Local agencies
- Local Historic Commission, office or group
- Local Planning Office
- Local Conservation Commission or Office
- Local Building and/or Code Enforcement Department or Office
- Other Local Agencies or Officials
- Regional Planning Commission and other agencies or offices with interest or potential input on the project or activity
- State Agencies
- DECD, Office of Community Development
- State Historic Preservation Officer
- State Environmental Agency
- Other state agencies or offices with interest or potential input on the project or activity
- Federal Agencies as appropriate
- Other interested groups or individuals – local or regional media

*(2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subparts F or G of this part.*

### **PUBLICATION REQUIREMENTS:**

#### **§ 58.43 Dissemination and publication of the findings of no significant impact.**

*(a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity [must] (sic) also publish the FONSI notice in a newspaper of general circulation in the affected community.*

*(b) The responsible entity may... publish a FONSI notice at the same time it ... publishes the NOI/RROF required by § 58.70. If the notices are released as a combined notice, the combined notice shall:*

- (1) Clearly indicate that it is intended to meet two separate procedural requirements; and*
- (2) Advise the public to specify in their comments which "notice" their comments address.*

## **Environmental Clearance**

Your community will be given an environmental clearance date by OCD (assuming your ERR is acceptable) the day AFTER the 15-day state objection period ends. A letter stating the environmental clearance date will be sent to your community sometime after this date.

Remember you cannot begin your project, obligate any project funds (CDBG or other federal funds), nor spend any project funds until after your clearance date. CDBG funds cannot be spent or obligated until you have executed your grant contract with OCD after successful completion of all Phase II requirements.

## **Documentation to Submit to OCD**

To complete this level of review, submit the following documentation:

- Environmental Review Statement: Finding of No Significant Impact
- Request for Release of Funds/Certification Form
- Statutory Checklist (including letter from SHPO)
- Environmental Assessment Checklist
- Combined Notice of Intent to Request Release of Funds and Finding of No Significant Impact from the newspaper
- Information on comments received and how they were resolved
- List of Interested Parties to whom the Notice was sent

The following pages give guidance in completing the Environmental Assessment Checklist, including a comprehensive list of guidance questions for areas within the Checklist. Examples of completed forms follow the guidance questions. Blank forms follow the examples.

# Completing the Environmental Assessment Checklist

The Environmental Assessment Checklist summarizes the applicable statutes, regulations and policies that you must use to analyze your project if you are performing a Non-Excluded/FONSI review. The intention of the environmental assessment is to gauge the “environmental appropriateness” of project given its location, project activities and ultimately, the purpose of the project. This is apparent in the environmental assessment guidance questions that are included as part of this section on the assessment.

In addition to providing you with a list of the appropriate topics for examining your project, the checklist helps summarize how your project relates to the requirements and needs of different areas of community life.

These columns allow you to describe how your project affects or fits with “Impact Categories”:

- no impact
- potential benefit
- whether or not a potential exists for negative or adverse consequences
- whether more study is needed
- what you have done or will do to mitigate project impact, if necessary or required
- how you have or will modify part of your project to comply with laws or rules

<b>Impact Categories</b> <i>(This column lists areas that may be impacted by your project and includes air quality, socioeconomic changes, community services and natural features)</i>	<b>No Impact Anticipated</b>	<b>Potentially Beneficial</b>	<b>Potentially Adverse, Requires Documentation</b>	<b>Potentially Adverse, Requires More Study</b>	<b>Needs Mitigation</b>	<b>Requires Project Modification</b>	<b>DESCRIPTION COLUMN</b>  <b>Describe/Provide Basis for Compliance Decision, including sources of documentation as basis for conclusions and attach supportive material as required or needed</b>

The last column is to state your conclusion, why you made the conclusion you made, and what the basis is for your conclusion. This is where you refer to the documentation and material used as the support for your conclusion presented for each impact category.

Remember that each “Impact Category” must be completed and your conclusion must be stated in the last column. Supportive documents and information are referenced in the last column. To help you consider each category, the following section lists guidance questions for consideration when reviewing your project.

# Maine CDBG Program Environmental Review

## Environmental Assessment Guidance Questions

### CONFORMANCE WITH COMPREHENSIVE PLANS AND ZONING

- ☐ Is the proposal consistent with completed components of the local or regional comprehensive plan, whether adopted or in draft stage? Is there a relevant state plan and is the proposal consistent?
- ☐ Is the proposed project consistent with other plans including those prepared by area wide planning agencies, special districts and boards, and state agencies in various functional areas?
- ☐ Is the proposed project consistent with adopted community or area wide policies and goals?
- ☐ Does the proposed project comply with existing zoning, land use, and subdivision regulations? If not, does the proposal require a zoning or land use variance?

### LAND USE COMPATIBILITY

- ☐ What are the existing land uses adjacent to the proposed project? Do the abutters and neighbors think the proposed project will be incompatible with existing uses?
- ☐ Will the project have an adverse effect on the economy of a core city area? Will it contribute to urban sprawl? Will it displace economic activity from a central business district?
- ☐ Will the proposed project induce development which will alter existing land use or which will be incompatible with the existing scale and density of development? Are the changes which will result from any induced development regarded by the community as beneficial or negative?
- ☐ Does the proposed project contribute to reducing the racial, ethnic and income segregation of the area's housing?

### SLOPE

- ☐ Does the proposal call for development on a steep slope and, if so, does its design plan include measures to overcome potential erosion, slope stability and runoff problems?
- ☐ Does the county, local, or site-specific soil survey mention that slopes are unstable for any of the soils on the site?
- ☐ Is there a history of slope failure in the project area environs?
- ☐ Is there visual indication of previous slides or slumps in the project area, such as cracked walls or tilted trees or fences?

### EROSION

- ☐ Does the project involve development of an erosion sensitive area (near water, on a steep slope, on a sandy or silty soil)? If so, is erosion control included as part of the plan?
- ☐ Does the proposed project create slopes by cut and fill?
- ☐ Does site clearance require vegetation removal? How many acres will be cleared and for how long?
- ☐ Is there evidence of erosion or sedimentation?

### SOIL SUITABILITY

- ☐ Is there any visible evidence of soil problems (i.e., foundation cracking or settling, basement flooding, etc.) in the neighborhood of the project site?

- ☐ Have soil borings been made for the area? Do they indicate marginal or unsatisfactory soil conditions?
- ☐ If the answer to either of the above questions is yes and the proposed project involves either new construction or very substantial rehabilitation activities, does the project design include appropriate mitigation measures to address the problem of poor soil conditions?

#### **HAZARDS, NUISANCES, AND SITE SAFETY**

- ☐ Does the project involve potential hazards, such as:  
potential public health and safety problems: noise, odor, vibration, lack of light, air pollution, toxic chemical dumps, uranium mill tailings, reclaimed phosphate land (radioactive)  
site hazards: shadows, inadequate street lighting, uncontrolled access to lakes and streams, improperly screened drains or catchment areas, steep stairs or walks, overgrown brush, hazardous waste dumps, facilities handling chemicals and/or petrochemicals of an explosive or fire prone nature  
traffic: circulation conflicts, road safety, exposure to radiation or toxic substances  
natural hazards: wind, droughts, floods, lightning, hurricanes, tornadoes; erosion, landslides, volcanoes, earthquakes; infestations, allergies, bacterial, viral and fungal diseases
- ☐ Does the project involve any other potential hazards not listed that are created by project construction, operation, and design as well as those existing on and near the site?
- ☐ Are there project users or neighboring populations whose special health and safety needs are not anticipated in the project design?
- ☐ Have actions been taken to protect children from attractive nuisances? Have measures been taken to reduce the potential risk to the elderly from dust and temporary walkways and traffic around construction sites?

#### **AIRPORTS**

- ☐ Is there a military airfield or commercial service airport in the vicinity of the proposed project site?
- ☐ If yes, is the project site located in Runway Clear Zone (civil airports) or is it located in the Clear Zone or Accident Potential Zone (military airfields)?

#### **ENERGY**

- ☐ Does the location of the site have any special energy related advantages or disadvantages? Can these be maximized or overcome?
- ☐ Have the architectural plans taken full advantage of potential energy saving measures, such as insulation, window design and placement, lighting, heating, cooling, and hot water systems?
- ☐ Are energy saving measures in conformance with HUD Minimum Property Standards and other applicable energy saving codes?
- ☐ Is the location of the project in close proximity to transit, shopping, services, and employment locations?

#### **NOISE CONTRIBUTION**

- ☐ Based on existing ambient noise and estimated future noise levels, is the site appropriate for the proposed activities and facilities?
- ☐ Will the project expose or be exposed to noise levels which exceed local, state, or HUD noise standards?

- ☐ If there is a potential noise problem, what kinds of mitigating measures are proposed for the project?

#### **AIR QUALITY**

- ☐ Does the project require an installation permit, operating permit, or indirect source permit under local pollution control agency rules? If so, have permit requirements been satisfied?
- ☐ Is the project located in the vicinity of a monitoring station where air quality violations have been registered? If so, will the project exacerbate air quality problems in the area?
- ☐ Has the project been designed to mitigate possible adverse effects if the project or its potential users would be particularly sensitive to existing air pollution levels, or those expected 10 to 20 years hence?
- ☐ Will the proposal establish a trend that will lead to violation of air quality standards in the future? If so, what project changes could be made or what mitigation measures could be established?
- ☐ Will the proposed project have parking facilities for 1,000 cars in an SMSA or 2,000 cars outside an SMSA or generate traffic of a corresponding magnitude?

#### **VISUAL QUALITY**

- ☐ Will there be physical alteration or destruction of the natural or man-made environment (clearance of trees or buildings; substantial alteration of vegetative character or land surface elevations; etc.)? What is the extent of alteration or destruction? Will the project restore or improve areas already disrupted by man, such as removing inappropriate drainage ways, redirecting surface water away from streams or ponds, or restore wetlands?
- ☐ Will there be intrusion of elements out of character or scale with existing physical environment? Are proposed signs, street furniture, and buildings in character with the existing architectural styles, particularly in historic areas?
- ☐ Does a proposed building represent a significant change in size, scale, placement, or height in relation to neighboring structures? Is the change inappropriate structurally or functionally (i.e., unrelated size or spacing of windows, floor levels, entrance patterns, etc.)?
- ☐ Will a proposed structure block or degrade views, change the skyline, or create a new focal point? Do loading docks, trash collectors, parking, etc. present objectionable visual pollution introduced either directly or indirectly due to loading docks, trash collectors, parking? Is this mitigated visually?
- ☐ Will there be interference with or impairment of capacity to have a positive experience of natural conditions (inhibitors include increased pollution, noise, vibration, dust, odor, heat, and glare)? Will these interfere with human health? Will increases promote the deterioration of vegetation, wildlife habitats, and historic buildings)?

#### **HISTORICAL, CULTURAL, AND ARCHAEOLOGICAL**

- ☐ Has a survey of local historic properties been conducted or does the locality have an inventory of historic places? Is there a local commission that can provide historic information?
- ☐ What information on the project area does the State Historic Preservation Office (SHPO) have? Does the project area and environs include properties listed on the National Register of Historic Places?
- ☐ Are there non-listed properties that appear to be historic? If so, consultation with the SHPO must be made regarding eligibility for inclusion in the National Register. (Note: Document consultations with the SHPO regarding National Register eligibility.)

- ☐ Has the Department of the Interior been contacted about eligibility of properties the community or SHPO consider eligible for listing and affected by the project?
- ☐ Has the SHPO indicated a Memorandum of Agreement is needed to avoid or reduce affects? If yes, has the Section 106 process been completed?
- ☐ Is consultation with the Advisory Council on Historic Preservation necessary for this project? If so, what was concluded?

#### **DEMOGRAPHIC/COMMUNITY CHARACTER**

- ☐ Are levels of activity reduced or increased? Are changes detrimental?
- ☐ What identifiable neighborhoods/communities are within the sphere of influence or likely impact of the project? What characteristics or identifiable factors help define the character of these communities or neighborhoods?
- ☐ Will the project result in physical barriers or difficult access which will isolate a particular neighborhood or population group, making access to local services, facilities, and institutions or other parts of the city more difficult?
- ☐ Will the proposed project severely alter residential, commercial, or industrial uses?
- ☐ Will the proposed project destroy or harm any community institution, such as a neighborhood church?

#### **DISPLACEMENT**

- ☐ Will the project directly displace individuals or families? If yes, how many persons?
- ☐ Is the displacement covered by the Uniform Relocation Act and are funds available for payment?
- ☐ Will the project destroy or relocate existing jobs, community facilities, or any business establishments? Is the displacement covered by The Act and are funds available for payments?
- ☐ Will identifiable groups be affected, such as older persons, females, single-parent families, racial/ethnic, income, or minority group members?
- ☐ Are replacement facilities or housing units available within the community or in nearby neighborhoods? What will be the effect of relocation on these neighborhoods?
- ☐ Will the project result in probable indirect displacement? If so, have measures been planned to alleviate the hardship on those affected whose displacement is not covered by The Act?

#### **EMPLOYMENT AND INCOME PATTERNS**

- ☐ Will the project either significantly increase or decrease employment opportunities? Will it create conditions favorable or unfavorable to commercial, industrial, or institutional operation or development?
- ☐ How many temporary and how many permanent jobs will be created by the project?
- ☐ What is the profile of new jobs created by the project? What is the distribution across the skills and income scale? How do these relate to the skills and income profile of project area residents?
- ☐ Will the new jobs likely go to area residents, to lower income, unemployed and minority group members? Will construction jobs likely go to union or nonunion workers?
- ☐ Where are the new employees likely to come from?



## **EDUCATIONAL FACILITIES**

- ☐ Will the additional school age children exceed the capacity of existing or planned school facilities?
- ☐ Does the potentially affected schools have adequate and safe access facilities? Are these adequate both in terms of safety and access?
- ☐ Will additional or alternative facilities have to be provided to ensure safety and suitable access?

## **COMMERCIAL FACILITIES**

- ☐ Is there adequate and convenient access to retail services? (In the case of elderly, this means that shopping for food, medicine, other essentials, is within three blocks and services such as banks are within walking distance.)
- ☐ Do local retail services meet the needs of project occupants/users? Are they affordable and is the range of services adequate?
- ☐ Will existing retail and commercial services be adversely impacted by the proposed project? Will existing businesses be placed at a competitive disadvantage or be displaced?

## **HEALTH CARE**

- ☐ Are non-emergency health care services located within a reasonable proximity to the proposed project, i.e., less than a half-hour's drive or commute away?
- ☐ Is emergency health service available within approximately three to five minutes?
- ☐ Can ambulance trips to a hospital or other health care center be made within 10 to 15 minutes?
- ☐ Is the number of professional/skilled medical staff in a realistic proportion to any increase in residents/users?
- ☐ Will project residents/users require special medical services or skills such as geriatric clinics?

## **SOCIAL SERVICES**

- ☐ Are social services currently located in close proximity to the prospective users/residents? Are they within walking distance or convenient to public transportation and less than one-half hour's commute?
- ☐ Is the number of professional/trained staff in realistic proportion to the anticipated increase in residents/users? Could ready provision for additional skilled staff be made?
- ☐ Will demand for social services increase and overburden existing facilities; can provision be made to obtain alternative and/or additional space?

## **SOLID WASTE**

- ☐ Will the existing or planned solid waste disposal system adequately service the proposed development
- ☐ As a result of the project, will the design capacity of these facilities be exceeded
- ☐ Will the proposed project be adversely affected by proximity to these facilities
- ☐ Does the community have an adequate number of vehicles to provide the project with collection service?
- ☐ Will the residents/users of the proposed project have to pay annual/monthly costs for these services? Will these costs create severe financial hardships for project residents?

**WASTE WATER**

- ☐ Will the existing or planned waste water systems adequately service the proposed development?
- ☐ As a result of the project, will the design capacity of wastewater treatment systems be exceeded?
- ☐ Will the proposed project area be adversely affected by proximity to these systems?
- ☐ In less developed or undeveloped areas, are soils suitable for on-site wastewater disposal such as septic systems?
- ☐ Where on-site disposal is necessary, will the Local Plumbing Inspector issue a permit?

**STORM WATER**

- ☐ Will existing or planned storm water disposal and treatment systems adequately service the proposed development?
- ☐ Will the project overload the design capacity of these facilities?
- ☐ Will the proposed project be adversely affected by proximity to these facilities?

**WATER SUPPLY**

- ☐ If on-site water is supplied through a public water system, has prior approval been given for public water system construction and operation, including supply for this project?
- ☐ Will either the municipal water utility or on-site water supply system be adequate to serve the proposed project?
- ☐ Is the quality of water supply safe from a chemical and bacteriological standpoint?
- ☐ Will the project affect a sole source or other aquifer?

**PUBLIC SAFETY**

- ☐ Does the project location provide adequate access to police, fire and emergency medical services?
- ☐ Are there or will there be obstacles to access (i.e., one-way roads, narrow bridges, waterways, expressways, railroads, etc.) which would prohibit access in an emergency situation? Does project design provide easy access for individuals and emergency vehicles?
- ☐ Are police and fire protection services available and adequate to meet project needs?
- ☐ Does the area have a particularly high crime rate? Are there special plans for a security system which have been approved by the police department?
- ☐ Is the design and/or architectural configuration of the development such that it is easily patrolled by police from the street?
- ☐ Will manpower/equipment burdens be faced by existing facilities? Can services be expanded or provided for the project? Can the project provide services, such as in-house security?

**OPEN SPACE, RECREATION, AND CULTURAL FACILITIES**

- ☐ Are open space and recreational and cultural facilities within reasonable proximity (within walking distance) to the project area?
- ☐ Is adequate public transportation available from the project to these facilities?

- ☐ Is there an adequate supply of these resources for the users or the resident population of the development?
- ☐ Will CDBG project cause any overloading of existing facilities?
- ☐ Can the special needs of certain population groups, such as small children, handicapped, or elderly persons, be provided for through the project?
- ☐ Are there lots for very small children, playgrounds for elementary school children, drop-in centers for senior citizens, etc.?
- ☐ If the development is housing, has space for informal play for children of all ages been included on-site? Have recreational areas for adults and the elderly been provided, including places for passive recreation?

## **TRANSPORTATION**

- ☐ Will transportation facilities and services be adequate to meet the needs of the project's users? Is off-street parking available and adequate? Is adequate public transportation available?
- ☐ Are there special transportation issues (programs for the elderly and handicapped, bridge clearances for trucks, emergency vehicle access) which have not been adequately provided for?
- ☐ Will the project serve to reduce the mobility of any group?
- ☐ Will the project encourage additional private vehicle trips and increase energy consumption?
- ☐ Will the users of the project be encouraged to use both auto and public transit?
- ☐ Have curbs been designed with wheelchair ramps, pedestrian activated signal lights, etc., where needed? Have pedestrian overpasses been included in plans where needed?
- ☐ Is traffic light timing adequate for elderly pedestrians?
- ☐ Will the project create any safety hazards?
- ☐ Will the project be provided with an adequate level of transportation service? Will it overload existing or proposed transportation services or conversely, create a situation whereby facilities are seriously underused?
- ☐ Have special parking spaces been designated for exclusive use by the handicapped?

## **WATER RESOURCES**

- ☐ Is the site subject to rapid water withdrawal problems which change the depth or character of the water table, affect water supply, and /or area vegetation?
- ☐ Will the project use groundwater for its water supply? Are there a large number of wells or wells that pump large quantities of water from the water table near the proposed project site?
- ☐ Will a lowered water table require deep pumping for water?
- ☐ Are septic systems being used?
- ☐ Is there a large variance in the water table elevation? (Note: a high seasonal water table can prevent proper functioning of septic tank drain fields.)

- ☐ Have septic disposal systems been properly designed, installed, and maintained to prevent effluent from contaminating groundwater supplies?
- ☐ Is there impact on a sole source aquifer?
- ☐ Are there visual or other indications of water quality problems on or near the site?
- ☐ Will the project involve discharge of sewage effluent into surface water bodies? If so, will it meet state, Federal and other applicable standards?
- ☐ Will the project involve a substantial increase in impervious surface area, and, if so, have runoff control measures been included in the design?
- ☐ Will the project affect surface water flows or water levels in ponds as a result of excessive ground water well pumping?

#### **FLOODPLAIN MANAGEMENT**

- ☐ Will the project be located in the 100-year floodplain, change the 100-year floodplain, or affect the floodway?
- ☐ Is the project required to be in the floodplain?
- ☐ Are there available alternatives to locating the proposed project or activity in the floodplain?
- ☐ Is the proposed project in compliance with Executive Order 11988, NFIP regulations, and the local Floodplain Management Ordinance?
- ☐ Is the proposed project or activity subject to compliance with the Federally approved State Coastal Zone Management Plans?
- ☐ Is the proposed project or activity in compliance with conditions set forth by the U.S. Army Corps of Engineers concerning permits for dredge and fill activity?

#### **WETLANDS PROTECTION**

- ☐ Does the proposed CDBG project have the potential to affect or be affected by a wetland?
- ☐ Is the project in compliance with Executive Order 11990?
- ☐ Are there available alternatives to locating the project or activity in the wetland?
- ☐ Is the proposed project or activity subject to compliance with Federally-approved State Coastal Zone Management Plans?
- ☐ Is the proposed project or activity in compliance with conditions set forth by the U.S. Army Corps of Engineers concerning permits for dredge and fill activity?

#### **COASTAL ZONE MANAGEMENT**

- ☐ Does the State have an approved Coastal Zone Management Plan?
- ☐ Does the proposed project directly affect the coastal zone? If so, is it consistent with the approved plan?

#### **UNIQUE NATURAL FEATURES**

- ☐ Will the proposed project location, construction, or activities of project users adversely impact unique natural features on or near the site?

- ☐ Will the project either destroy or isolate from public or scientific access any unique natural feature or features on or near the site?
- ☐ Will the unique natural feature pose safety hazards for a proposed development?

#### **AGRICULTURAL LANDS**

- ☐ Will the proposed project be located on or directly adjacent to land that is categorized as prime, unique, or of State or local importance?
- ☐ Will drainage from the project adversely affect farmland?
- ☐ Will the project location, construction, or activities of project users adversely affect important and productive farmlands on or near the site by conversion?
- ☐ Will the project create problems by introducing nuisance species of vegetation which may spread to adjacent farmland?

#### **VEGETATION AND ANIMAL LIFE**

- ☐ Will the project damage or destroy existing remnant plant communities, especially rare or endangered species?
- ☐ Will it damage or destroy trees without replacement and landscaping?
- ☐ Will the project create environmental conditions which might threaten the survival of existing vegetation, particularly changes in the native plant community habitats?
- ☐ Will it create conditions favorable to nuisance species?
- ☐ Will the project create special hazards for animal life? What types of animals will be affected and how will they be affected?
- ☐ Will the project damage or destroy existing wildlife habitats?
- ☐ Will the project threaten any animal species listed by either state or Federal agencies as rare or endangered?
- ☐ Will the project damage game fish habitats or spawning grounds?
- ☐ Will the project create conditions favorable to the proliferation of pest species?
- ☐ Will excessive grading alter the groundwater level and thus cause the slow death of trees and ground cover which in turn destroys animal habitat?

**Samples of completed Finding of No Significant Impact level of review forms are on the following pages.**

## Maine Community Development Block Grant Program

### Environmental Review Statement: Finding of No Significant Impact

Project Name: Central Revitalization Program

Project Location: Savemoore, ME

Contact Person: Robert Knight, Town Administrator

The following Activities have been reviewed under 24 CFR Part 58. ***Some project activities are neither exempt by definition under Section 58.34 nor categorically excluded under Section 58.35. Review of Section 58.37 and project activities documents that Environmental Impact Statement (EIS) under Subpart G of Part 58 is not required.***

Therefore ***an Environmental Assessment has been prepared in accordance with Subpart E of Part 58*** and is maintained in local files. Required documents from the Environmental Assessment are attached to this statement. Signature certifies that information on comments received and responses made are included in this submission.

#### LIST PROJECT ACTIVITIES:

Water, sanitary and storm sewer reconstruction  
Sanitary sewer extension  
Sewer hookups  
Housing rehabilitation  
Road and sidewalk reconstruction

*Robert Knight*

Signature of Environmental Review Officer

6/22/93

Date

*Robert Knight*

Signature of Chief Executive Officer

6/22/93

Date

# Maine Community Development Block Grant Program

## Environmental Review - Statutory Checklist

PROJECT NAME: **Savemoore Central Project**

GRANTEE NAME:

**Savemoore**

Statutes and Regulations	Not Applicable to this project	Consultation Required	Review required	Permits required	Consistency and approvals determined: Permits in Hand	Requires mitigating actions; special conditions apply	Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed
Historic Properties (attach letter from SHPO)	X						Attached letter from the State Historic Preservation Office verifies no impact
Floodplain Management/ Flood Insurance (if in floodplain, attach letter from SPO)	X						Attached floodplain map with project location marked shows project out of floodplain
Wetlands Protection	X						Project will not affect wetlands; USGS map with project location in file
Coastal Zone Management	X						Is not CZ area. Code Enforcement Officer
Coastal Barriers	X						Not on CBRS list provided by MGS.
Water Quality-Aquifers	X						Area served by public water
Wild and Scenic Rivers	X						Not in Allagash or environs
Air Quality	X						No asbestos problems indicated
Farmlands Protection Act	X						Urban area. No conversion of prime farmland; site not used to farm
Endangered/Threatened Species	X						Urban area; extension in existing developed ROW; reviewed with Natural Resources (see memo 3/10/02 in file); US & State agrees no impact
Essential Habitat/Fish and Wildlife	X						Not on Maine IF&W list; not on habitat map; web site listing of wildlife habitats. No wildlife here; no endangered fish (see MIF&W memo 3/15/02))
Environmental Justice	X						Improves LMI area; health & safety improvements too
Airport Clear Zone	X						Not in zone, map review (in file)
Solid Waste Disposal	X		X				Environmental assessment cleared
Water Quality and State Safe Drinking Water Law	X	X					Public water supply will not be affected

Statutes and Regulations	Not Applicable to this project	Consultation Required	Review required	Permits required	Consistency and approvals determined: Permits in Hand	Requires mitigating actions; special conditions apply	Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed
Protection of Waters	X						There will be no overboard discharges
Site Location Law	X						Individual rehabs and hookups are not subject to site location law; infrastructure replacements/extension not extensive enough as shown in DEP letter
Natural Resources Protection Act	X						Clearance as per report of telephone contact and DEP confirmation memo
Submerged Land Law	X						Project located inland; not in submerged tidal lands
Subsurface Wastewater Disposal	X	X					Permits, mandatory inspections required for individual sewer hook-ups
Protection of Air Act	X						Projects will not affect air quality; construction will follow Best Management Practices (BMP)
<b>MANMADE HAZARDS</b>							
Thermal/Explosive	X						Project will not have any upon completion; none stored in area; construction will follow BMP if any blasting takes place
Noise	X						Follows Town ordinance which is more stringent than HUD regs
Toxic Sites	X						None in project area; town planner inventory of potential sites showed none in Town
<b>OTHER LOCAL, STATE, FEDERAL LAWS OR STATUES APPLICABLE TO PROJECTS</b>							

Robert Knight

333-1111

Town Manager/CEO

5/30/93

Signature of Preparer

Telephone Number

Relationship to Grantee

Date



# Maine Community Development Block Grant Program

## Environmental Assessment

<b>Project Name:</b>	<b>CENTRAL REVITALIZATION PROJECT, SAVEMOORE, ME</b>
----------------------	--

<b>Impact Categories</b>	<b>No Impact Anticipated</b>	<b>Potentially beneficial</b>	<b>Potentially Adverse, Requires Documentation</b>	<b>Potentially Adverse, Requires More Study</b>	<b>Needs Mitigation</b>	<b>Requires Project Modification</b>	<b>DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED</b>
<b>Land Development</b>							
Conformance with Comprehensive Plans and Zoning		X					<i>Residential and special business zone; comp plans idents. for upgrades; high priority</i>
Compatibility and Urban Impact		X					<i>Water, sewer, storm water supports neighborhood – no excess capacity created</i>
Slope	X						<i>No adverse slopes, slight slope at northern end will not pose engineering problem</i>
Erosion	X						<i>Engineering report describes precautionary methods along with site, slope, soil, etc. conditions; no impact expected</i>
Soil Suitability	X						<i>Plaisted gravelly loam or sandy Adams soils both well drained; some shallow ledge</i>
Hazards and Nuisances including Site Safety	X						<i>OSHA required as part of construction contract; blasting and construction follows guideline; notification requirements in contract</i>
Energy Consumption	X						<i>Improved water, storm and sanitary services will make systems more efficient</i>

Impact Categories	No Impact Anticipated	Potentially beneficial	Potentially Adverse, Requires Documentation	Potentially Adverse, Requires More Study	Needs Mitigation	Requires Project Modification	DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED
<b>Noise</b>							
Effects of Ambient Noise on Project and Contribution to Community Noise Levels	X						CD and on-site engineers memo re: compliance with HUD and local noise regulations and ordinance documents project within regulations
<b>Air Quality</b>							
Effect of Ambient Air Quality on Project and Contribution to Community Pollution Levels	X						No new air emissions, no extraordinary construction conditions; BMP in contract
<b>Environmental Design and Historic Values</b>							
Visual Quality, Coherence, Diversity, Compatible Use and Scale		X					Project visually improves streetscapes; street, sidewalk, curb reconstruction occurs after other work; specs illustrate compatible design
Historic Cultural and Archeological Resources	X						No such resources impacted; access not impacted by project see SHPO letter attached to Statutory Checklist
<b>Socioeconomic</b>							
Demographic/ Character Changes	X X						Increased capacity adequate for neighborhood and emerging business subdivision; no excess development potential (Planning Board)
Displacement	X						No displacement; extension in existing ROW
Employment and Income Patterns		X					Supportive of interdependent development – neighborhood and small business; Planner/Planning Board approved
<b>Community Facilities and Services</b>							
Educational Facilities	X						No additional school age population
Commercial Facilities		X					Stabilizes neighborhood and business area; see Planner's report re: area continuation

<b>Impact Categories</b>	<b>No Impact Anticipated</b>	<b>Potentially beneficial</b>	<b>Potentially Adverse, Requires Documentation</b>	<b>Potentially Adverse, Requires More Study</b>	<b>Needs Mitigation</b>	<b>Requires Project Modification</b>	<b>DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED</b>
Health Care	X						<i>Demand unchanged and accessible; no special requirements; Planner and Planning Board</i>
Social Services	X						<i>Supply of and demand for unchanged; adequate, Planner and Planning Board report p.3</i>
Solid Waste	X						<i>Capacity adequate for all activities; post construction demand unchanged; collection capacity unchanged</i>
Waste Water		X					<i>Studies, permits, engineers report all conclude project adequately addresses needed protection from pollution</i>
Storm Water		X					<i>Capacity adequate for project's purposes; decrease in pollution potential significant</i>
Water Supply		X					<i>Quality and capacity improved; infrastructure cumulative impacts positive; see Public Works summary (p.1) in file</i>
<b>Public Safety</b>							
Police	X						<i>All public safety access during construction handled via emergency plan (description in CD Office; has contact persons)</i>
Fire		X					<i>Improved quality helps fire fighting ability, all others help via pollution free utilities (see Fire Chief's letter)</i>
Emergency/Medical	X						<i>Construction completion results in no change re: access, capacity, etc.</i>
Transportation	X						<i>Emergency/detour plan will be in operation during construction. (Police and Planning Board reports in CD office)</i>
Open Space	X						<i>No open space "filled"; no increased potential to do so (Planning Board, p.2)</i>
Recreational/ Cultural Facilities	X						<i>No resources or access impacted</i>

Impact Categories	No Impact Anticipated	Potentially beneficial	Potentially Adverse, Requires Documentation	Potentially Adverse, Requires More Study	Needs Mitigation	Requires Project Modification	DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED
<b>Natural Features</b>							
Water resources		X					No sole source aquifer impact; wellhead protection in place and supply excellent; other infrastructure imp. protects resources
Surface Water		X					Sanitary/storm separation and improvements protects resources
Floodplains	X						Neither in nor impacts floodplain (FIRM map w/ locations marked; SPO double check)
Wetlands	X						No wetlands or wetlands soils in vicinity or impacted (COE and wetlands inventory maps referenced; engineer reports)
Coastal Zone	X						Not in coastal zone, does not affect coastal zone; management map from SPO reviewed. Also checked CBRS reference; Town not listed.
Unique Natural Features and Agricultural Lands	X						All construction in roadway/ROW; sites previously disturbed; construction contract provisions inhibit any other impacts
Vegetation and Wildlife	X						No rare, endangered species impacted; tree replacement plan on record; US and State info. Positive; Natural Areas also supportive. Check Stat. Checklist for file references

## Environmental Assessment Summation

### Summary of Findings and Conclusions:

Project integrates water, sanitary sewer and storm water reconstructions and extension into overall infrastructure improvement that eliminates public health threats and reduces pollution potential. An emergency access plan for residents and public safety personnel will be in operation during construction, housing rehab, utility hook-ups and major impact in Savemoore.

### Summary of Environmental Condition:

Positive impacts outweigh temporary inconveniences associated with construction and emergency access plan. Conclusion of project protects human and physical environment, supports neighborhood and small business elements, and does not negatively impact social or economic environment

### Project Modifications and Alternatives Considered:

Not doing the project was not feasible, given environmental hazards outlined by State agency reports and engineering studies. Doing parts as local financing allowed was not cost effective and became infeasible due to increased environmental dangers and impacts. Funding through loans was limited by debt ceilings and rate limits on various utilities. Combination loan, grant and local match donation was only financing plan. All site and location reviews resulted in the present physical location. Construction contract and manual reflect best management practices; modifications to drafts were based on input from agencies, engineers and other contact persons. Review identified solid waste system needed evaluation, the completed study identified the system is completely satisfactory.

**Additional Studies Performed (Attach Study or Summarize):**

List of engineering studies, local Town office reports, and correspondence from local and non-local consultants is attached and is in the local CD file.

**Mitigation Measures Needed:**

None needed.

**Final Determination:**

Is the project in compliance with laws and regulations?

☒ Yes or No

Is an EIS required?

Yes or ☒ No

As a result of the reviews completed, the project will not significantly affect the quality of the human environment and a Finding of No Significant Impact (FONSI) can be made.

☒ Yes or No

**Robert Knight**

6/4/93

**Signature of Preparer**

**Date of Completed**

**Town of Savemoore, 9898 Solar Way, Savemoore, ME 04555**

**333-1111**

**Mailing Address**

**Telephone Number**

**Town Manager**

**Relationship to Grantee**

## Maine Community Development Block Grant Program

### Combined Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds

Date: June 6, 1993  
Grantee: Savemoore  
Address: Savemoore Town Office, 9898 Solar Way  
Savemoore, ME 04555  
Telephone: (207) 555-2121

**Request for Release of Funds:** On or about June 23, 1993, the **Town of Savemoore** will submit a request to the Department of Economic and Community Development (OCD) for the release of CDBG funds under Title I of the Housing and Community Development Act of 1974, as amended, **to undertake the Central Revitalization Project to replace dilapidated sewer lines, sewer hook-ups, extend sewer 500 feet and housing rehabilitation that will revitalize the Central area of Savemoore. The town will replace water lines and reconstruct roads and sidewalks in the same area. Central neighborhood of the Town of Savemoore, bordered by North, South, East and Central Avenues. The total cost is \$750,000.** Specific sites for housing rehabilitation and hook-ups will be reviewed for historic or archeological influence.

**Finding of No Significant Impact:** The **Town of Savemoore** has determined through an environmental assessment that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 is not required. Additional project information is in the Environmental Review Record (ERR) is on file at:

Grantee: **Savemoore Town Office**  
Address: **9898 Solar Way**  
**Savemoore, ME**  
Telephone: **(207) 555-1212**

The ERR may be examined or copied weekdays 8:30 a.m. to 4:00 p.m.

#### Public Comments

Any individual, group, or agency disagreeing with this determination or wishing to comment on the project may submit written comments on the ERR to the **Town of Savemoore** at the **Savemoore Town Office**. All comments received by June 21, 1993 will be considered by **the Town of Savemoore** prior to authorizing a request for release of funds. Comments should specify which Notice they are addressing.

#### Release of Grant Funds

The **Town of Savemoore** certifies to DECD that **Robert Knight** in his official capacity consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process, and that these responsibilities have been satisfied. DECD's acceptance of the certification satisfies its responsibilities under NEPA and related laws allow the **Town of Savemoore** to use Program funds.

#### Objections to Release of Funds

DECD will accept objections to its release of funds and the **Town of Savemoore** certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if it is on one of the following bases: (a) the certification was not executed by the Chief Executive Officer of the **Town of Savemoore**; (b) the ERR indicates omission of a required step, decision or finding required by 24 CFR Part 58; (c) the grant recipient or other participants in the development process have incurred costs or undertaken project activities not authorized by 24 CFR Part 58 before approval of a release of funds by DECD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to DECD at 59 State House Station, Augusta, ME 04333-0059. Potential objectors should contact DECD to verify the actual last day of the objection period and specify which notice their comments address.

Robert Knight  
Chief Executive Officer

Savemoore Town Office, Savemoore, ME  
Address



## Maine Community Development Block Grant Program

### Request for Release of Funds (RROF) and Certification Form

<b>1. Program Title: Maine Community Development Block Grant Program</b>		<b>OMB Catalog No. 14.228</b>
<b>2. Name and Address of Recipient:</b>	Town of Savemoore 9898 Solar Way Savemoore, ME 04555	
<b>3. For Information Contact:</b>	Robert Knight/Jay Day	
<b>4. Date of this Request:</b>	7/24/1993	
<b>5. Project Dates:</b>	Application Submission 12/1/92 Phase II Invitation 3/15/93 Contract Executed 10/1/93	

#### Part 1. Request for Release of Funds

**6. Send Request to:** Department of Economic and Community Development (OCD)  
33 Stone St., 59 State House Station  
Augusta, ME 04333-0059

The recipient of assistance listed above requests the removal of environmental conditions and the release of grant funds for the following:

<b>7. Program/Project Name:</b> Central Revitalization Program	<b>8. Location/Address of Program/Project:</b> Central area, bordered by North, South, East and Central, Savemoore, Maine 04555
---	--

**9. Program Activity/Project description:** Replace dilapidated sewer lines and sewer hook-ups. Extend sewer lines 500 ft. Rehabilitate 15 substandard homes. CDBG funds will be used for these activities. Other funds will be used for water line replacement, road reconstruction and sidewalk reconstruction.

#### Part 2. Environmental Certification

With reference to the above Program Activity/Project, I, the undersigned Officer of the recipient, certify that: **(a)** the recipient has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named above. **(b)** The recipient has complied with National Environmental Policy Act of 1969, as amended, and with the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5 and 58.6. **(c)** The recipient has taken or will take into account the environmental criteria, standards, permit requirements and other obligations applicable to the project or program activity under other Federal, State and local laws that the recipient has the direct responsibility to comply with. **(d)** The recipient has provided the State Historic Preservation Officer and the Secretary of the Interior an opportunity to act with respect to properties which the recipient believes are affected by the project and are eligible for the National Register of Historic Places (Section 119[m], HCD Act of 1974, as amended). **(e)** After considering the type and degree of environmental effects identified by the environmental review completed for the enclosed project described in Part 1 of this request, I have found that the proposal **(did) (did not)** require the preparation and dissemination of an environmental impact statement. **(f)** The recipient

has, prior to submitting this request for the release of funds and certification, published in the manner prescribed by 24 CFR 58.43 a notice to the public in accordance with 24 CFR 70 and as evidenced by the attached copy. (g) The date upon which all statutory and regulatory time periods for review, comment or other action, following completion of the environmental review for the project/program activity, **began and ended as indicated below** in compliance with the procedures and requirements of 24 CFR 58.

**Check level of review:**

- ☐ **Notice of Intent to Request a Release of Funds (Categorically Excluded, Not Exempt, 7- day local comment period)**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☒ **Combined Notice: Finding of No Significant Impact and Intent to request Release of Funds (Nonexcluded/FONSI, 15-day local comment period)**

Date Published in Newspaper	Comment Period
6/6/93	Date began: 6/7/1993
	Date ended: 6/21/1993

- ☐ **Notice of Finding of No Significant Impact**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☐ **Notice of Intent to Prepare an EIS**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

**15-DAY State Objection Period (estimated by Grantee)**

DATE SENT TO DECD:	DATE BEGAN:	DATE ENDED:
6/22/1993	6/24/1993	7/8/1993



**As the duly designated certifying official of the grantee/recipient, I also certify that:**

a) I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making, and actions that have been assumed by the grantee/recipient;

b) by so consenting, I have assumed the responsibilities for the conduct of environmental review, decision-making, and actions as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements and lead agency or cooperating agency responsibilities for preparation of such statements on behalf of federal agencies including HUD, when these agencies consent to such assumptions; and

c) I am authorized to act and do accept, on behalf of the recipient and personally, the jurisdiction of the federal courts for the enforcement of all these responsibilities, in my capacity as Chief Executive Officer/certifying officer of the grantee/recipient.

**Signature of Chief Executive Officer of Grantee/Recipient**

**Address:**

Title: **Robert Knight** Town Manager  
(designated Chief Executive Officer)

Town of Savemoore, 9898 Solar Way  
Savemoore, ME 04555

**Warning: Section 1001 of Title 18 of the U.S. Code and Criminal Procedure shall apply to this certification. Title 18 provides, among other things, that whoever knowingly makes or uses a document or writing containing any false, fictitious or fraudulent statement or entry, in any manner within the jurisdiction of any department or agency of the United States, shall be find not more than \$10,000 or imprisoned not more than five years or both. Adapted HUD-7015.15 (9-88)**

## Maine Community Development Block Grant Program

### Environmental Review Statement: Finding of No Significant Impact

---

Project Name: \_\_\_\_\_  
Project Location: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

The following Activities have been reviewed under 24 CFR Part 58. Some project activities are neither exempt by definition under Section 58.34 nor categorically excluded under Section 58.35. Review of Section 58.37 and project activities documents that Environmental Impact Statement (EIS) under Subpart G of Part 58 is not required. Therefore an Environmental Assessment has been prepared in accordance with Subpart E of Part 58 and is maintained in local files. Required documents from the Environmental Assessment are attached to this statement. Signature certifies that information on comments received and responses made are included in this submission.

#### LIST PROJECT ACTIVITIES:

---

Signature of Environmental Review Officer \_\_\_\_\_ Date \_\_\_\_\_

---

Signature of Chief Executive Officer \_\_\_\_\_ Date \_\_\_\_\_

# Maine Community Development Block Grant Program

## Environmental Review - Statutory Checklist

PROJECT NAME:

GRANTEE NAME:

<b>Statutes and Regulations</b>	<b>Not Applicable to this project</b>	<b>Consultation Required</b>	<b>Review required</b>	<b>Permits required</b>	<b>Consistency and approvals determined: Permits in Hand</b>	<b>Requires mitigating actions; special conditions apply</b>	<b>Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed</b>
Historic Properties (attach letter from SHPO)							
Floodplain Management/ Flood Insurance (if in floodplain, attach letter from SPO)							
Wetlands Protection							
Coastal Zone Management							
Coastal Barriers							
Water Quality-Aquifers							
Wild and Scenic Rivers							
Air Quality							
Farmlands Protection Act							
Endangered/Threatened Species							
Essential Habitat/Fish and Wildlife							
Environmental Justice							
Airport Clear Zone							
Solid Waste Disposal							
Water Quality and State Safe Drinking Water Law							

<b>Statutes and Regulations</b>	<b>Not Applicable to this project</b>	<b>Consultation Required</b>	<b>Review required</b>	<b>Permits required</b>	<b>Consistency and approvals determined: Permits in Hand</b>	<b>Requires mitigating actions; special conditions apply</b>	<b>Describe/provide basis for compliance decision; identify file documents and results of compliance reviews. Attach supportive materials as required or needed</b>
Protection of Waters							
Site Location Law							
Natural Resources Protection Act							
Submerged Land Law							
State Plumbing Code							
Protection of Air Act							
<b>MANMADE HAZARDS</b>							
Thermal/Explosive							
Noise							
Toxic Sites							
<b>OTHER LOCAL, STATE, FEDERAL LAWS OR STATUTES APPLICABLE TO PROJECTS</b>							

---

<b>Signature of Preparer</b>	<b>Telephone Number</b>	<b>Relationship to Grantee</b>	<b>Date</b>
------------------------------	-------------------------	--------------------------------	-------------

# Maine Community Development Block Grant Program

## Environmental Assessment

<b>Project Name:</b>	
----------------------	--

<b>Impact Categories</b>	<b>No Impact Anticipated</b>	<b>Potentially beneficial</b>	<b>Potentially Adverse, Requires Documentation or More Study</b>	<b>Needs Mitigation</b>	<b>Requires Project Modification</b>	<b>DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED</b>
<b>Land Development</b>						
Conformance with Comprehensive Plans and Zoning						
Compatibility and Urban Impact						
Slope						
Erosion						
Soil Suitability						
Hazards and Nuisances including Site Safety						
Energy Consumption						

Impact Categories	No Impact Anticipated	Potentially beneficial	Potentially Adverse, Requires Documentation or More Study	Needs Mitigation	Requires Project Modification	DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED
<b>Noise</b>						
Effects of Ambient Noise on Project and Contribution to Community Noise Levels						
<b>Air Quality</b>						
Effect of Ambient Air Quality on Project and Contribution to Community Pollution Levels						
<b>Environmental Design and Historic Values</b>						
Visual Quality, Coherence, Diversity, Compatible Use and Scale						
Historic Cultural and Archeological Resources						
<b>Socioeconomic</b>						
Demographic/ Character Changes						
Displacement						
Employment and Income Patterns						
<b>Community Facilities and Services</b>						
Educational Facilities						
Commercial Facilities						

<b>Impact Categories</b>	<b>No Impact Anticipated</b>	<b>Potentially beneficial</b>	<b>Potentially Adverse, Requires Documentation or More Study</b>	<b>Needs Mitigation</b>	<b>Requires Project Modification</b>	<b>DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED</b>
Health Care						
Social Services						
Solid Waste						
Waste Water						
Storm Water						
Water Supply						
Public Safety: Police						
Fire						
Emergency/ medical						
Transportation						
Open Space						
Recreation/ Cultural Facilities						

Impact Categories	No Impact Anticipated	Potentially beneficial	Potentially Adverse, Requires Documentation or More Study	Needs Mitigation	Requires Project Modification	DESCRIBE/PROVIDE BASIS FOR COMPLIANCE DECISION, INCLUDING SOURCES OF DOCUMENTATION AS BASIS FOR CONCLUSIONS AND ATTACH SUPPORTIVE MATERIAL AS REQUIRED OR NEEDED
Natural Features						
Water resources						
Surface Water						
Floodplains						
Wetlands						
Coastal Zone						
Unique Natural Features and Agricultural Lands						
Vegetation and Wildlife						

## Environmental Assessment Summation

**Summary of Findings and Conclusions:**

**Summary of Environmental Condition:**

**Project Modifications and Alternatives Considered:**



**Additional Studies Performed (Attach Study or Summarize):**

**Mitigation Measures Needed:**

**Final Determination:**

---

Is the project in compliance with laws and regulations?

Yes or No

Is an EIS required?

Yes or No

As a result of the reviews completed, the project will not significantly affect the quality of the human environment and a Finding of No Significant Impact (FONSI) can be made.

Yes or No

---

**Signature of Preparer**

**Date of Completed**

---

**Mailing Address**

**Telephone Number**

**Relationship to Grantee**

## Maine Community Development Block Grant Program

### Combined Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds

Date of Notice: \_\_\_\_\_  
Grantee: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**Request for Release of Funds:** On or about \_\_\_\_\_, the Town/City of \_\_\_\_\_ will submit a request to the Department of Economic and Community Development (OCD) for the release of CDBG funds under Title I of the Housing and Community Development Act of 1974, as amended, to undertake the project known as: \_\_\_\_\_ for the purpose of \_\_\_\_\_

Total estimated funding is \_\_\_\_\_

**Finding of No Significant Impact:** The Town/City of \_\_\_\_\_ has determined through an environmental assessment that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 is not required. Additional project information is in the Environmental Review Record (ERR) on file at:

Grantee: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

The ERR may be examined or copied weekdays from \_\_\_\_\_ a.m. to p.m.

#### Public Comments

Any individual, group, or agency disagreeing with this determination or wishing to comment may submit written comments on the ERR to the Town/City of \_\_\_\_\_ at the above address. All comments received by \_\_\_\_\_ will be considered by the Town/City of \_\_\_\_\_ prior to authorizing a request for release of funds. Comments should specify which Notice they are addressing.

#### Release of Grant Funds

The Town/City of \_\_\_\_\_ certifies to DECD that (Chief Executive Officer) \_\_\_\_\_ in his/her official capacity consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process, and that these responsibilities have been satisfied. DECD's acceptance of the certification satisfies its responsibilities under NEPA and related laws and allows the Town/City of \_\_\_\_\_ to use Program funds.

#### Objections to Release of Funds

DECD will accept objections to its release of funds and the Town/City certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if an objection is on one of the following bases: **(a)** the certification was not executed by the Chief Executive Officer of the Town/City of \_\_\_\_\_; **(b)** the ERR indicates omission of a required step, decision or finding required by 24 CFR Part 58; **(c)** the grant recipient or other participants in the development process have incurred costs or undertaken project activities not authorized by 24 CFR Part 58 before acceptance of the release of funds by DECD; or **(d)** another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58.76) and shall be addressed to DECD at 59 State House Station, Augusta, ME 04333-0059. Potential objectors should contact DECD to verify the actual last day of the objection period.

Signature of Chief Executive Officer

Address



## Request for Release of Funds (RROF) and Certification Form

1. Program Title: Maine Community Development Block Grant Program OMB Catalog No. 14.228

2. Name and Address of Recipient:	
3. For Information Contact:	
4. Date of this Request:	
5. Project Dates:	

### Part 1. Request for Release of Funds

6. Send Request to: Department of Economic and Community Development (OCD)  
33 Stone St., 59 State House Station  
Augusta, ME 04333-0059

The recipient of assistance listed above requests the removal of environmental conditions and the release of grant funds for the following:

7. Program/Project Name:	8. Location/Address of Program/Project:

### 9. Program Activity/Project description:

### Part 2. Environmental Certification

With reference to the above Program Activity/Project, I, the undersigned Officer of the recipient, certify that: **(a)** the recipient has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named above. **(b)** The recipient has complied with National Environmental Policy Act of 1969, as amended, and with the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5 and 58.6. **(c)** The recipient has taken or will take into account the environmental criteria, standards, permit requirements and other obligations applicable to the project or program activity under other Federal, State and local laws that the recipient has the direct responsibility to comply with. **(d)** The recipient has provided the State Historic Preservation Officer and the Secretary of the Interior an opportunity to act with respect to properties which the recipient believes are affected by the project and are eligible for the National Register of Historic Places (Section 119[m], HCD Act of 1974, as amended). **(e)** After considering the type and degree of environmental effects identified by the environmental review completed for the enclosed project described in Part 1 of this request, I have found that the proposal **(did)** **(did not)** require the preparation and dissemination of an environmental impact statement. **(f)** The recipient

has, prior to submitting this request for the release of funds and certification, published in the manner prescribed by 24 CFR 58.43 a notice to the public in accordance with 24 CFR 70 and as evidenced by the attached copy. **(g)** The date upon which all statutory and regulatory time periods for review, comment or other action, following completion of the environmental review for the project/program activity, **began and ended as indicated below** in compliance with the procedures and requirements of 24 CFR 58.

**Check level of review:**

- ☐ **Notice of Intent to Request a Release of Funds (Categorically Excluded, Not Exempt, 7- day local comment period)**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☐ **Combined Notice: Finding of No Significant Impact and Intent to request Release of Funds (Nonexcluded/FONSI, 15 – day local comment period)**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☐ **Notice of Finding of No Significant Impact**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

- ☐ **Notice of Intent to Prepare an EIS**

Date Published in Newspaper	Comment Period
	Date began:
	Date ended:

**15-DAY State Objection Period (Estimated by Grantee)**

DATE SENT TO DECD:	DATE BEGAN:	DATE ENDED:

**As the duly designated certifying official of the grantee/recipient, I also certify that:**

(a) I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of Law designated in the 24 CFR 58.5 and 58.6 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making, and actions that have been assumed by the grantee/recipient;

(b) by so consenting, I have assumed the responsibilities for the conduct of environmental review, decision-making, and actions as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements, and lead agency or cooperating agency responsibilities for preparation of such statements on behalf of federal agencies including HUD, when these agencies consent to such assumptions; and

(c) I am authorized to act and do accept, on behalf of the recipient and personally, the jurisdiction of the federal courts for the enforcement of all these responsibilities, in my capacity as Chief Executive Officer/certifying officer of the grantee/recipient.

---

Signature of Chief Executive Officer of Grantee/Recipient

Title

---

Address

**Warning: Section 1001 of Title 18 of the United States Code and the Criminal Procedure shall apply to this certification. Title 18 provides, among other things, that whoever knowingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any manner within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years or both. Adapted HUD-7015.15 (9-88)**

# Appendix

**CDBG Environmental Review Regulations (24 CFR Part 58)**

**HUD Procedures for the Implementation of EO 11988 (24 CFR Part 55 [with excerpts from Parts 50 and 200])**

**HUD Noise Abatement and Control; Hazardous Operations; Runway Clear Zones (24 CFR Part 51)**

	<b>CDBG Environmental Review Regulations</b> <b>PART 58--ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES</b>
Sets the legal stage and defines overall terms.	<b>Subpart A--Purpose, Legal Authority, Federal Laws and Authorities</b> Sec. 58.1 Purpose, scope and applicability. 58.2 Terms, abbreviations and definitions. 58.4 Assumption authority. 58.5 Related Federal laws and authorities. 58.6 Other requirements.
General Responsibilities/Requirements	<b>Subpart B--General Policy: Responsibilities of Responsible Entities</b> 58.10 Basic environmental responsibility. 58.11 Legal capacity and performance. 58.12 Technical and administrative capacity. 58.13 Responsibilities of the certifying officer. 58.14 Interaction with State, Federal and non-Federal entities. 58.15 Tiering. 58.17 [Removed and Reserved] 58.18 Responsibilities of States Assuming HUD Responsibilities.
Overall Information and Clear Statement of No Funds/No Action without ERR Clearance	<b>Subpart C--General Policy: Environmental Review Procedures</b> 58.21 Time periods. 58.22 Limitations on activities pending clearance. 58.23 Financial assistance for environmental review.
Lots on Levels of Review. Project Definition, Exempt activities and Categorically Excluded activities outlined.	<b>Subpart D--Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification</b> 58.30 Environmental Review Process. 58.32 Project aggregation. 58.33 Emergencies. 58.34 Exempt activities. 58.35 Categorical exclusions. 58.36 Environmental assessments. 58.37 Environmental impact statement determinations. 58.38 Environmental review record.
Specific to Environmental Assessment/FONSI Level of Review	<b>Subpart E--Environmental Review Process: Environmental Assessments (EA's)</b> 58.40 Preparing the environmental assessment. 58.43 Dissemination and/or publication of the findings of no significant impact. 58.45 Public comment periods. 58.46 Time delays for exceptional circumstances. 58.47 Re-evaluation of environmental assessments and other environmental findings.
Specific to Environmental Impact Statement (EIS) Level of Review	<b>Subpart F--Environmental Review Process: Environmental Impact Statement Determinations</b> 58.52 Adoption of other agencies' EISs. 58.53 Use of prior environmental impact statements.
Specific to EIS	<b>Subpart G--Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements</b> 58.55 Notice of intent to prepare an EIS. 58.56 Scoping process. 58.57 Lead agency designation. 58.59 Public hearings and meetings. 58.60 Preparation and filing of environmental impact statements.
Mostly specific for published notices. Review 58.72(b)(c) and 58.75 for overall release of funds issues.	<b>Subpart H--Release of Funds for Particular Projects</b> 58.70 Notice of intent to request release of funds. 58.71 Request for release of funds and certification. 58.72 HUD or State actions on RROFs and certifications. 58.73 Objections to release of funds. 58.74 Time for objecting. 58.75 Permissible bases for objections.

58.76 Procedure for objections.

58.77 Effect of approval of certification.

**AUTHORITY:** 12 U.S.C. 1707 note, 1715z-13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, 12838, and 12905(h); title II of Pub. L. 105-276; E.O. 11514 as amended by E.O. 11991, 3 CFR 1977 Comp., p. 123.12 U.S.C. 1707 note; 42 U.S.C. 1437o(i)(1) and (2), 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, and 12838; E.O. 11514, 3 CFR, 1966-1970, Comp., p. 902, as amended by E.O. 11991, 3 CFR, 1977 Comp., p.123.

## **Subpart A--Purpose, Legal Authority, Federal Laws and Authorities**

### **§ 58.1 Purpose, scope and applicability.**

**(a) Purpose.** This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

**(b) Applicability.** This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:

(1) **Community Development Block Grant programs** authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));

(2) [Reserved]

(3)(i) Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(ii) Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(4) The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);

(5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));

(6) (i) Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x);

(ii) Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998); and

(iii) Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x);

(7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading "Annual Contributions for Assisted Housing" in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);

(8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c)

f th H i d C it D l t A t f 1992 i d ith ti

The purpose is to show how HUD assisted entities can comply with the requirements of NEPA.

The CDBG Program is specifically mentioned as covered by Part 58.



of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note);  
(9) The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834), in accordance with section 11(m));  
(10) Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:

(i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and

(ii) Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226);

(11) Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z-13a(k)); and

(12) Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998).

**(c) When HUD assistance is used to help fund a revolving loan fund** that is administered by a recipient or another party, the activities initially receiving assistance from the fund are subject to the requirements in this part. Future activities receiving assistance from the revolving loan fund, after the fund has received loan repayments, are subject to the environmental review requirements if the rules of the HUD program that initially provided assistance to the fund continue to treat the activities as subject to the Federal requirements. If the HUD program treats the activities as not being subject to any Federal requirements, then the activities cease to become Federally-funded activities and the provisions of this part do not apply.

**(d)** To the extent permitted by applicable laws and the applicable regulations of the Council on Environmental Quality, the Assistant Secretary for Community Planning and Development may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

#### **§ 58.2 Terms, abbreviations and definitions.**

**(a)** For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

(1) **Activity** means an action that a grantee or recipient puts forth as part of an assisted project, **regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.**

(2) **Certifying Officer** means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of § 58.13.

(3) **Extraordinary Circumstances** means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

(i) Actions that are unique or without precedent;

(ii) Actions that are substantially similar to those that normally require an EIS

(iii) Actions that are likely to alter existing HUD policy or HUD mandates; or

(iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

(4) **Project** means ***an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.***

(5) **Recipient** means any of the following entities, when they are eligible recipients or grantees under a program listed in § 58.1(b):

(i) A State that does not distribute HUD assistance under the program to a unit of general local government

Note the cost and eligible language here. This means that all project activities, HUD-funded or otherwise, must be considered as "activities" under this Part.

Extraordinary circumstances can change your level of review and lengthen the state objection period. If this may apply, contact your DPM immediately to discuss!

The definition of "project" means you have to **include all activities related to the accomplishment of your project's objective.** See 58.32(a)(b) for more.

Recipient.

(ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;

**(iii) A unit of general local government;**

(iv) An Indian tribe;

(v) With respect to Public Housing Programs under § 58.1(b)(6)(i), fiscal year 1999 and prior HOPE VI grants under Sec. 58.1(b)(6)(ii) or Section 8 assistance under Sec. 58.1(b)(6)(III), a public housing agency; a public housing agency;

(vi) Any direct grantee of HUD for a special project under § 58.1(b)(7);

(vii) With respect to the FHA Multifamily Housing Finance Agency Program under § 58.1(b)(8), a qualified housing finance agency;

(viii) With respect to the Self-Help Homeownership Opportunity Program under § 58.1(b)(9), any direct grantee of HUD; and

(ix) (A) With respect to NAHASDA assistance under Sec. 58.1(b)(10), the Indian tribe or the Department of Hawaiian Home Lands; and

(B) With respect to the Section 184 Indian Housing Loan Guarantee program under Sec. 58.1(b)(11), the Indian tribe.

With respect to the Shelter Plus Care and Supportive Housing Programs under Sec. 58.1(b)(3)(ii), nonprofit organizations and other entities.

**(6) Release of funds.** In the case of the FHA Multifamily Housing Finance Agency Program under Sec. 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter. In the case of the Section 184 Indian Housing Loan Guarantee program under Sec. 58.1(b)(11), Release of Funds refers to HUD's issuance of a commitment to guarantee a loan, or if there is no commitment, HUD's issuance of a certificate of guarantee.

**(7) Responsible Entity.** Responsible Entity means:

(i) With respect to environmental responsibilities under programs listed in Sec. 58.1(b)(1), (2), (3)(i), (4), and (5), **a recipient under the program.**

(ii) With respect to environmental responsibilities under the programs listed in Sec. 58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) listed in Sec. 58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in Sec. 58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(D) For Indian housing authorities (outside of Alaska), the Indian tribe in whose jurisdiction the project is located, or if the project is located outside of a reservation, the Indian tribe that established the authority; and

(E) For Indian housing authorities in Alaska, the Alaska native village in whose community the project is located, or if HUD determines this infeasible, a unit of general local government or the State, as designated by HUD.

**(8) Unit Density** refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

**(9) Tiering** means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment

Units of general local government.

Tiering is the concept used when you update your ER when you are performing a site

specific review.

Assessment or Review.

(10) **Vacant Building** means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

Note these acronyms ...

- (1) **CDBG - Community Development Block Grant;**
- (2) **CEQ - Council on Environmental Quality;**
- (3) **EA - Environmental Assessment;**
- (4) **EIS - Environmental Impact Statement;**
- (5) **EPA - Environmental Protection Agency;**
- (6) **ERR - Environmental Review Record;**
- (7) **FONSI - Finding of No Significant Impact;**
- (8) **HUD - Department of Housing and Urban Development;**
- (9) **NAHA - Cranston-Gonzalez Nat'l Affordable Housing Act of 1990;**
- (10) **NEPA - National Environmental Policy Act of 1969, as amended;**
- (11) **NOI/EIS - Notice of Intent to Prepare an EIS;**
- (12) **NOI/RROF - Notice of Intent to Request Release of Funds;**
- (13) **ROD - Record of Decision;**
- (14) **ROF - Release of Funds; and**
- (15) **RROF - Request for Release of Funds.**

#### **§ 58.4 Assumption authority.**

This section requires OCD to set up an ER process, which is why this Handbook exists...

(a) **Assumption authority for responsible entities: General.** Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. **When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.**

and approve RROFs as a way of meeting the requirements of NEPA.

#### **(b) Particular responsibilities of the States.**

(1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.

(2) States must exercise HUD's responsibilities in accordance with Sec. 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the state of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in Sec. 58.5.

(c) **Particular responsibilities of Indian tribes.** An Indian tribe may, but is not required to, assume responsibilities for environmental review, decision-making and action for programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a). The tribe must make a separate decision regarding assumption of responsibilities for each of these Acts and communicate that decision in writing to HUD. If the tribe assumes these responsibilities, the requirements of this part shall apply. If a tribe formally declines assumption of these responsibilities, they are retained by HUD and the provisions of part 50 of this title apply.

#### **§ 58.5 Related Federal laws and authorities.**

The first list of Federal statutes that you must compare your project's environmental impact to. This forms the basis of our "Statutory Checklist".

**Contact with the State Historic Preservation Office (SHPO) at Maine Historic Preservation Commission is necessary.**

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that **it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.**

#### **(a) Historic properties.**

- (1) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.),  
ti l l ti 106 d 110 (16 U S C 470 d 470h 2)

**Check with the Code Enforcement Officer first to see if a floodplain is impacted.** Follow up with the Flood Insurance Coordinator Office at the Maine State Planning Office if a floodplain is impacted or if questions arise.

particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2).

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921) particularly section 2(c).

(3) Federal historic preservation regulations as follows: (i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and (ii) 36 CFR part 801 with respect to UDAG.

(4) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq), particularly section 3 (16 U.S.C. 469a-1).

**b) Floodplain management and wetland protection.**

(1) Executive Order 11988, Floodplain Management, May 24, 1977 (3 CFR, 1977 Comp., p. 117), as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see § 55.10 of this subtitle A.)

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (3 CFR, 1977 Comp., p. 121) particularly sections 2 and 5.

**(c) Coastal Zone Management.** The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

**(d) Sole source aquifers.**

(1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).

(2) Sole Source Aquifers (Environmental Protection Agency, 40 CFR part 149).

**(e) Endangered species.** The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536).

**(f) Wild and scenic rivers.** The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

**(g) Air quality.**

(1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).

(2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-- 40 CFR parts 6, 51, and 93).

**(h) Farmlands protection.**

(1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).

(2) Farmland Protection Policy (Department of Agriculture -- 7 CFR part 658).

**(i) HUD environmental standards.**

(1) Applicable criteria and standards specified in part 51 of this title, other than the runway clear zone notification requirement in Sec. 51.303(a)(3).

(2)(i) Also, it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

(ii) The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, **must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.**

(iii) Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.

(iv) The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.

**(j) Environmental justice.** Executive Order 12898 -- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629).

**§ 58.6 Other requirements.**

In addition to the duties under the laws and authorities specified in § 58.5 for

All review levels must comply with 58.6

assumption by the responsible entity under the laws cited in § 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(11) and/or the applicability of § 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, **regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35(a) or (b).**

(a) (1) Under the **Flood Disaster Protection Act of 1973**, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

- (i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and
- (ii) Flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where a recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Pursuant to the **Coastal Barrier Resources Act**, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

(c) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a **Runway Clear Zone** or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

## **Subpart B--General Policy: Responsibilities of Responsible Entities**

### **§ 58.10 Basic environmental responsibility.**

In accordance with the provisions of law cited in Sec. 58.1(b), except as otherwise provided in Sec. 58.4(c), the responsible entity must assume the environmental responsibilities for projects under programs cited in Sec. 58.1(b). In doing so, the responsible entity must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part.

### **§ 58.11 Legal capacity and performance.**

(a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(b) If a public housing, special project, HOPWA, Supportive Housing, Shelter Plus Care, or Self-Help Homeownership Opportunity recipient that is not a responsible entity objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.

(c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with § 58.77(d)(1).

(d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the

Maine CDBG Program adopted the policy that all requirements of the Flood Disaster Protection Act of 1973, as amended, will be adhered to.

OCD is the responsible entity in this case. OCD is required to assume the environmental responsibilities required by NEPA.

environmental review in accordance with the provisions of 24 CFR part 50.

**§ 58.12 Technical and administrative capacity.**

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.

**§ 58.13 Responsibilities of the certifying officer.**

Under the terms of the certification required by § 58.71, a responsible entity's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in § 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in § 58.5. The Certifying Officer must also:

- (a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and
- (b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

**§ 58.14 Interaction with State, Federal and non-Federal entities.**

A responsible entity shall consult, as appropriate, environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in § 58.5 and § 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2(b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs (see 40 CFR 1501.5(b) and 1501.6). A single EIS may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

**§ 58.15 Tiering.**

Responsible entities may **tier** their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review.

**Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date.** The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

**§ 58.17 [Removed and Reserved]**

**§ 58.18 Responsibilities of States Assuming HUD Responsibilities.**

States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The state must:

- (a) Designate the state agency or agencies that will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H of this part and which will:

This section allows a broad review followed by a site-specific review.

ERR clearance may be given for clearing some activities prior to other activities. Contact your DPM for this consideration.

This section outlines OCD requirements. OCD is also required to monitor compliance with required comment periods.

This is the basis for counting comment and state objection period days.

**Extremely important!** This specifies recipient, participant, and contractor cannot commitment funds AND cannot undertake a project activity before OCD has issued an ERR clearance date.

**Maine CDBG Program requires submittals for all projects.**

**Prior actions count.**  
Recipients need to know what prospects or beneficiaries have decided or done relative to a project

Option as part of acquisition process could be before an ERR clearance, **solely** at the risk of the purchaser.

(1) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.

(2) Receive public notices, RROFs, and certifications from recipients pursuant to Sec. 58.70 and 58.71; accept objections from the public and from other agencies (Sec. 58.73); and perform other related responsibilities regarding releases of funds.

(b) Fulfill the state role in subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

#### **Subpart C -- General Policy: Environmental Review Procedures**

##### **§ 58.21 Time periods.**

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

##### **§ 58.22 Limitations on activities pending clearance.**

(a) **Neither a recipient nor any participant in the development process**, including public or private nonprofit or for-profit entities, or any of their contractors, **may commit HUD assistance** under a program listed in Sec. 58.1(b) on an activity or project **until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity**. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in Sec. 58.1(b) **if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives**.

(b) If a project or activity is exempt under Sec. 58.34, or is categorically excluded (except in extraordinary circumstances) under Sec. 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination as required in Sec. 58.34(b) and Sec. 58.35(d), but the recipient must comply with applicable requirements under Sec. 58.6.

(c) **If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.**

(d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(e) Self-Help Homeownership Opportunity Program (SHOP). In accordance with section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note), an organization, consortium, or affiliate receiving assistance under the SHOP program may advance nongrant funds to acquire land prior to completion of an environmental review and approval of a Request for Release of Funds (RROF) and certification, notwithstanding paragraph (a) of this section. Any advances to acquire land prior to approval of the RROF and certification are made at the risk of the organization, consortium, or affiliate and reimbursement for such advances may depend on the result of the environmental review. This authorization is limited to the SHOP program only and all other forms of HUD assistance are subject to the limitations in paragraph (a) of this section.

(f) Relocation. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

##### **§ 58.23 Financial assistance for environmental review.**

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in § 58.5 and § 58.6, are eligible costs to the

extent allowable under the HUD assistance program regulations.

## **Subpart D -- Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification**

### **§ 58.30 Environmental Review Process.**

(a) **The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with § 58.32.**

(b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

### **§ 58.32 Project aggregation.**

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: **functional aggregation** when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; **geographic aggregation** when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or a **combination of aggregation approaches**, which, for various project locations, considers the impacts arising from each functional activity and its **interrelationship with other activities**.

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

**(1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).**

**(2) Consider reasonable alternative courses of action.**

**(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.**

**(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.**

### **(d) Multi-year project aggregation.**

(1) Release of funds. When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

(2) When one or more of the conditions described in § 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

### **§ 58.33 Emergencies.**

(a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

(b) If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a **Presidentially declared disaster**, or **during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety**, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined.

The definition of an environmental review (ER).

This section explains how to view your project activities so your project description will be complete.

Review this section to be sure you are providing a **comprehensive project description** in your environmental review record (ERR).

This gives reasons why aggregation is important AND required!

Estimated total project cost has to be given.

Only in cases of a **declared** imminent threat, disaster or emergency can local and state comment periods are concurrent.



The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

#### **§ 58.34 Exempt activities.**

(a) Except for the applicable requirements of § 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

- (1) Environmental and other studies, resource identification and the development of plans and strategies;
- (2) Information and financial services;
- (3) Administrative and management activities;
- (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- (5) Inspections and testing of properties for hazards or defects;
- (6) Purchase of insurance;
- (7) Purchase of tools;
- (8) Engineering or design costs;
- (9) Technical assistance and training;
- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters, imminent threats or physical deterioration;
- (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
- (12) **Any of the categorical exclusions listed in § 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in § 58.5.**

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. **However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.**

#### **§ 58.35 Categorical exclusions.**

Categorical exclusion refers to a category of activities for which **no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except** in extraordinary circumstances (see § 58.2(a)(3) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

**(a) Categorical exclusions subject to § 58.5.** The following activities are **categorically excluded** under NEPA, but may be subject to review under authorities listed in § 58.5:

- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use **without change in size or capacity of more than 20 percent** (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- (3) Rehabilitation of buildings and improvements when the following conditions are met:
  - (i) **In the case of a building for residential use (with one to four units)**, the density is not increased beyond four units, the land use is not changed, and the footprint of

The beginning of the discussion on levels of review...

This may allow some projects to exempt part of their activities immediately...

Public Service projects under the Maine CDBG Program require at least a 35(b) Level of Review

(12) is the origin of the Categorically Excluded, Converted to Exempt level of review further discussed in 58.35.

**ERR required!** Maine program requires submittals.

Categorically Excluded, Converted to Exempt or Not Exempt review levels are discussed in this section.

Many of these activities are typical CDBG projects: Public Facilities, Roads, Sidewalks, etc. Note that a **change** of more than 20% capacity will lead to conducting a FONSI review.

Housing Rehabilitation differences: Note increase in units beyond 4 for these residential units ...and note **change** (increase or decrease) of 20% in density for multifamily

residential units will lead to a FONSI review.

Commercial, industrial, public building rehabilitation. If the project is financing a change of use or a **change** in size or capacity of more than 20%, you must do a FONSI Review.

Other Housing.

This covers the 58.35(b) Level of Review. You must check with your DPM before doing this level of review! Check the 58.35(b) section for materials to submit for these projects.

**Maine CDBG Program requires submittals.**

Here's the list of projects that fit the 35(b) level of review....

Public services activities

Construction, rehabilitation, and **EXPANSION OF OPERATIONS** means many economic development projects do not come under this level of review.

Refer back to section 58.2(3) for the definition of "extraordinary circumstances"

the building is not increased in a floodplain or in a wetland;

**(ii) In the case of multifamily residential buildings:** **(A)** Unit density is not changed more than 20 percent; **(B)** the project does not involve changes in land use from residential to non-residential; and **(C)** the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; and

**(iii) In the case of non-residential structures, including commercial, industrial, and public buildings,** **(A)** the facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and **(B)** the activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

**(4)(i)** An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

**(ii)** An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

**(iii)** Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

**(5)** Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

**(6)** Combinations of the above activities.

**(b) Categorical exclusions not subject to § 58.5. The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5.** When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under § 58.6.

**(1)** Tenant-based rental assistance;

**(2)** Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

**(3)** Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

**(4)** Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs **not associated with construction or expansion of existing operations;**

**(5)** Activities to assist homeownership of existing "or new dwelling units not assisted with Federal funds" including closing costs and down payment assistance to home buyers, interest buydowns and similar activities that result in the transfer of title to a property;

**(6)** Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact;

**(7)** Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Sec. 58.47.

**(c) Circumstances requiring NEPA review.** If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity

## ERR!

This Section tells us that a project that does not fit into the above categories must complete the Environmental Assessment. See the section on Finding of No Significant Impact for checklists, forms and more...

If you believe that your project would require an EIS contact OCD immediately! Most projects do not require an EIS.

This section adds detail to the summary definition of ERR in 58.35(d). Note availability of the ERR for public review.

This section describes what the ERR must contain. OCD has created forms to reflect needs for each review level.

or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

**(d) The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.**

### **§ 58.36 Environmental assessments.**

**If a project is not exempt or categorically excluded under §§ 58.34 and 58.35, the responsible entity must prepare an EA** in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under § 58.37, the responsible entity should proceed directly to an EIS.

### **§ 58.37 Environmental impact statement determinations.**

**(a)** An EIS is required when the project is determined to have a potentially significant impact on the human environment.

**(b)** An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:

(1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of **2,500** or more beds.

(2) The project would remove, demolish, convert or substantially rehabilitate **2,500** or more existing housing units (but not including rehabilitation projects categorically excluded under § 58.35), or would result in the construction or installation of **2,500** or more housing units, or would provide sites for **2,500** or more housing units.

(3) The project would provide enough additional water and sewer capacity to support **2,500** or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

**(c)** If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

**(d)** Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where § 58.53 is applicable.

**(e)** Recommended EIS Format. The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

### **§ 58.38 Environmental review record.**

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The responsible entity must use the current HUD-recommended formats or develop equivalent formats.

**(a) ERR Documents.** The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decisionmaking and actions pertaining to a particular project of a recipient. The document shall:

(1) Describe the project and the activities that the recipient has determined to be part of the project;

(2) Evaluate the effects of the project or the activities on the human environment;

(3) Document compliance with applicable statutes and authorities, in particular those cited in § 58.5 and 58.6; and

(4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

**(b) Other documents and information.** The ERR shall also contain verifiable source

Checklist attachments are required by Section 58.38(b)

These EA requirements form the basis of the column headings on the Environmental Assessment Checklist

The "Finding of No Significant Impact" or FONSI level of review.

If you find significant impact contact your DPM at OCD immediately!

Additional requirements if you are performing the FONSI review:

Asking for comments from interested parties early in process is beneficial. See description of distribution or dissemination list in FONSI level of review.

**Maine CDBG Program requires publishing the notice**

**Comments have to be addressed...** whether from governmental agencies, local or regional groups, individual citizens, etc.

documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR **provided that each source document is identified and available for inspection by interested parties.** Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

**Subpart E--Environmental Review Process: Environmental Assessments (EA's)**  
**§ 58.40 Preparing the environmental assessment.**

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:

- (a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.
- (b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.
- (c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in § 58.5 & 58.6.
- (d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.
- (e) Examine alternatives to the project itself, if appropriate, including the alternative of no action.
- (f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §§ 58.5 and 58.6.
- (g) **Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:**

(1) A **Finding of No Significant Impact (FONSI)**, in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to § 58.43.

(2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subparts F or G of this part.

**§ 58.43 Dissemination and/or publication of the findings of no significant impact.**

(a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must **send the FONSI notice to individuals and groups known to be interested in the activities**, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.

(b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by § 58.70. If the notices are released as a combined notice, the combined notice shall:

- (1) Clearly indicate that it is intended to meet two separate procedural requirements; and
- (2) Advise the public to specify in their comments which "notice" their comments address.

(c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if

i t t b d b f di ith th dit f f d

Note emphasis on comment periods as minimum time periods.

Maine CDBG Program requires publishing the notice

Some reasons why comment periods may be extended...

Findings must be re-evaluated if...

If re-evaluation shows the original findings are no longer valid, then...

Sub-recipients must inform the recipient if conditions change.

appropriate, must be made before proceeding with the expenditure of funds.

**§ 58.45 Public comment periods:** Required notices must afford the public the following **minimum** comment periods, counted in accordance with Sec. 58.21:

- (a) Notice of Finding of No Significant Impact (FONSI): 15 days when published or, if no publication, 18 days when mailing and posting.
- (b) Notice of Intent to Request Release of Funds (NOI): 7 days when published or, if no publication, 10 days when mailing and posting.
- (c) Concurrent or combined notices: 15 days when published or, if no publication, 18 days when mailing and posting.

**§ 58.46 Time delays for exceptional circumstances.**

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- (a) There is a considerable interest or controversy concerning the project;
- (b) The proposed project is similar to other projects that normally require the preparation of an EIS; or
- (c) The project is unique and without precedent.

**§ 58.47 Re-evaluation of environmental assessments and other environmental findings.**

(a) A responsible entity must re-evaluate its environmental findings when:

- (1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
- (2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
- (3) The recipient proposes the selection of an alternative not in the original finding.

(b) The purpose of the responsible entity's re-evaluation is to determine if the original findings are still valid. If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must amend the original findings and update its ERR by including this re-evaluation and its determination based on its findings. If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts. Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

**Subpart F--Environmental Review Process:**

**Environmental Impact Statement Determinations**

**§ 58.52 Adoption of other agencies' EISs.**

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in § 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

**§ 58.53 Use of prior environmental impact statements.**

Where any final EIS has been listed in the Federal Register for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

(a) The ERR contains a decision based on a finding pursuant to § 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:

- (1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;
- (2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;
- (3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;
- (4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS has been filed within five (5) years, and updated as follows:

- (1) The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;
- (2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

#### **Subpart G--Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements**

##### **§ 58.55 Notice of intent to prepare an EIS.**

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

##### **§ 58.56 Scoping process.**

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under § 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

##### **§ 58.57 Lead agency designation.**

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

##### **§ 58.59 Public hearings and meetings.**

(a) Factors to consider. In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:

- (1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.
- (2) The degree of interest in or controversy concerning the project.
- (3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.
- (4) The extent to which public involvement has been achieved through other means.

(b) Procedure. All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date.

The Notice must:

- (1) State the date, time, place, and purpose of the hearing or meeting.
- (2) Describe the project, its estimated costs, and the project area.

- (3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.
- (4) State the responsible entity's name and address and the name and address of its Certifying Officer.
- (5) State what documents are available, where they can be obtained, and any charges that may apply.

**§ 58.60 Preparation and filing of environmental impact statements.**

- (a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.
- (b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:
  - (1) Five copies to EPA Headquarters;
  - (2) Five copies to EPA Regional Office;
  - (3) Copies made available in the responsible entity's and the recipient's office;
  - (4) Copies or summaries made available to persons who request them; and
  - (5) FEIS only -- one copy to State, HUD Field Office, and HUD Headquarters library.
- (c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.
- (d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.
- (e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1502.2.

**Subpart H--Release of Funds for Particular Projects**

**§ 58.70 Notice of intent to request release of funds.**

The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.

**§ 58.71 Request for release of funds and certification.**

- (a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.
- (b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.
- (c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

**§ 58.72 HUD or State Actions on RROFs and certifications.**

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

- (a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the

The Certifying Officer is the Chief Executive Officer of the local government.

Funds can be obligated or expended for exempt by definition activities if these activities are included in another environmental review process. DPM approval is needed.

certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

**(b)** HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in Sec. 58.75, or that the RROF and certification are inaccurate.

**(c)** In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

**§ 58.73 Objections to release of funds.**

HUD (or the State) will not approve the RROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in § 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

**§ 58.74 Time for objecting.**

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

**§ 58.75 Permissible bases for objections.**

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

- (a) The certification was not in fact executed by the responsible entity's Certifying Officer.
- (b) The responsible entity has failed to make one of the two findings pursuant to § 58.40 or to make the written determination required by §§ 58.35, 58.47 or 58.53 for the project, as applicable.
- (c) The responsible entity has omitted one or more of the steps set forth at subpart E of this part for the preparation, publication and completion of an EA.
- (d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.
- (e) **The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by this part before release of funds and approval of the environmental certification by HUD (or the state).**
- (f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

**§ 58.76 Procedure for objections.**

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

- (a) Include the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of an agency.
- (b) Be dated when signed.
- (c) Describe the basis for objection and the facts or legal authority supporting the objection.
- (d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

**§ 58.77 Effect of approval of certification.**

**(a) Responsibilities of HUD and States.** HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at § 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable

Requires a minimum of a 15-day State Objection Period **whenever a notice is required or published** before OCD approves any request for funds.

Refer to 58.21 for how days are counted.

Grounds for objecting to a request for funds.



provisions of law cited in § 58.1(b).

(b) **Public and agency redress.** Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. **Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer.** Remedies for noncompliance are set forth in program regulations.

(c) **Implementation of environmental review decisions.** Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

(d) **Responsibility for monitoring and training.** (1) At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. **If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:**

(i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;

(ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;

(iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;

(iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

**(v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.**

(2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under § 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.

Possible sanctions resulting from failure to follow requirements of Part 58e.

**Dated: March 27, 1996.**

**Henry G. Cisneros  
Secretary**